

**THE UNIVERSITY OF HONG KONG**

Regulations and Syllabuses for  
LLM  
And  
Regulations Governing the Format and related matters of  
Dissertations for Higher Degrees by Coursework

2015 - 2016

Regulations for the Degrees of Master of Laws (LLM), Master of Laws in Chinese Law (LLM[CHINESE LAW]), Master of Laws in Corporate & Financial Law (LLM[CFL]), Master of Laws in Human Rights (LLM[HR]) AND Master of Laws in Information Technology and intellectual property Law (LLM[IT&IPL])

*(See also General Regulations)*

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### **Admission requirements**

LL 14. To be eligible for admission to the courses leading to the degree of Master of Laws (in the general stream or a specialist stream) a candidate shall

- (a) comply with the General Regulations; and
- (b)
  - (i) hold the degree of Bachelor of Laws with at least second class honours of this University; or
  - (ii) hold a degree in law with at least second class honours from another university or comparable institution accepted for this purpose; or
  - (iii) have been admitted to the professional practice of law in Hong Kong or in a territory or country other than Hong Kong; or
  - (iv) have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained at least second class honours degree of this University or from another university or comparable institution accepted for this purpose; or
  - (v) in the case of admission to the Master of Laws in Human Rights or the Master of Laws in Corporate and Financial Law or the Master of Laws in Information Technology and Intellectual Property Law programmes only, hold another degree in a discipline other than law with at least second class honours or a qualification of equivalent standard from this University or from another university or comparable institution accepted for this purpose and provided that the Faculty Higher Degrees Committee is satisfied that by reason of candidate's background, experience and professional qualifications, if any, the candidate is fit to follow the programme.

LL 15. A candidate for admission under Regulation (b)(ii), (b)(iii), (b)(iv) or (b)(v) above shall produce evidence of sufficient academic attainment and shall satisfy the examiners in a qualifying examination if such an examination is required. A candidate who fails to meet the requirements of (b)(i), (b)(ii), (b)(iii), (b)(iv) or (b)(v) above by reason only of the fact that his or her degree is not of at least second class honours standard may, nevertheless, be admitted provided that the Faculty Higher Degrees Committee is satisfied that by reason of his or her background, experience and professional qualifications, if any, the candidate is fit to follow the courses.

LL 16. A candidate who has already completed a Postgraduate Diploma programme offered by this Faculty may apply for conversion to the Master's programme in the corresponding specialty with advanced standing. Such candidate is required to achieve an average grade as determined by the Faculty Higher Degrees Committee from time to time in his or her

### **Qualifying examination**

LL 17.

- (a) A qualifying examination may be set to test the candidate's formal academic ability or his or her ability to follow the courses of study prescribed. It shall consist of one or more written papers or their equivalent.
  - (b) A candidate who is required to satisfy the examiners in a qualifying examination shall not be permitted to register until he or she has satisfied the examiners in the examination.
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### **Award of degree**

LL 18. To be eligible for the award of the degree of Master of Laws (in the general stream or a specialist stream) a candidate shall

- (a) comply with the General Regulations; and
  - (b) complete the curriculum and satisfy the examiners in accordance with the regulations set out below.
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### **Length of Curriculum**

LL 19. The curriculum shall comprise approximately 300 hours of prescribed work. It shall extend over a minimum of two academic years and a maximum of four academic years of part-time study, or a minimum of one academic year and a maximum of two academic years of full-time study.

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### **Completion of the curriculum**

LL 20. To complete the curriculum a candidate shall

- (i) follow the equivalent of eight modules as prescribed by the syllabus; and
- (ii) satisfactorily complete all prescribed written and other work in each module;

LL 20.(A) A candidate completing the curriculum under LL 20 shall also

- (i) satisfy attendance requirements, if any;
- (ii) satisfy the examiners in each module by either assessed written work carried out during the module or a written examination at the end of the module or both; and
- (iii) satisfy the examiners in an oral examination if such an examination is required.

## **Dissertation**

LL 21. A candidate, whether full-time or part-time, who elects to submit a dissertation equivalent to either one module or two shall submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.

LL 22. In exceptional circumstances a candidate may apply to the Faculty Board for an extension of the period within which the dissertation must be presented.

LL 23. The candidate shall submit a statement that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.

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## **Failure to satisfy the examiners**

LL 24. A candidate who has failed to satisfy the examiners in not more than two modules/courses in any academic year may be permitted

- (a) to attend a supplementary examination; or
- (b) to repeat the module(s)/course(s) at the next available opportunity and to re-take the prescribed examination or examinations; or
- (c) to re-take the prescribed examination or examinations at the next available opportunity without repeating the module(s)/ course(s); or
- (d) to undertake the study of an alternative module(s)/course(s) at the next available opportunity and to take the prescribed examination or examinations.

LL 25. A candidate who has failed to present a satisfactory dissertation may be permitted, subject to his performance in other examinations, to revise the dissertation and to re-present it within a specified period as determined by the Board of Examiners after receiving a notice that it is unsatisfactory.

LL 26. A candidate who is not permitted to present himself or herself for re-examination in any module(s)/ courses(s) in which he or she has failed to satisfy the examiners or to revise and re-present the dissertation shall be recommended for discontinuation of studies under General Regulation G 12.

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## **Absence from examination**

LL 27. A candidate who is unable because of illness or other acceptable reason to attend for examination may apply for permission to attend for examination at some other time.

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## **Examination results**

LL 28. At the conclusion of the examination a pass list shall be published. A candidate who has shown exceptional merit at the whole examination may be awarded a mark of distinction

and this mark shall be recorded in the candidate's degree diploma.

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### **Advanced standing**

LL 29. For the degree of Master of Laws, Master of Laws in Chinese Law, Master of Laws in Corporate and Financial Law, or the degree of Master of Laws in Information Technology and Intellectual Property Law, a candidate may be given advanced standing for up to 2 modules on the ground that equivalent modules or courses have been passed at another university or comparable institution accepted by the Senate for this purpose: provided that no candidate shall be eligible for the award of any of the degrees set out in these regulations without having earned at least 6 modules in this programme. A holder of the corresponding Postgraduate Diploma (see LL16 above and regulations for the Postgraduate Diplomas) offered by this Faculty may be eligible to apply for advanced standing for up to 2 modules, but he or she may not enrol in any course which he or she has satisfactorily completed in the relevant Postgraduate Diploma.

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### **Conversion**

LL 30. A candidate who has been admitted to a Postgraduate Diploma programme and who has satisfied the examiners in all examinations, may be considered for admission to the Master of Laws or the corresponding Master's programme provided that his or her application for conversion has been submitted on or before the prescribed deadline (see regulations for the Postgraduate Diplomas). Candidates who satisfy the examiners in the Master's programme examinations shall qualify for the award of the Master's degree, but shall not qualify for the award of the relevant Postgraduate Diploma (see regulations for the Postgraduate Diplomas). A candidate under these circumstances who, for whatever reasons, does not have sufficient modules for the award of the Master's degree shall qualify for the award of the relevant Postgraduate Diploma.

LL 30.(A) A candidate with a degree of Master of Laws from Hong Kong or another jurisdiction may apply for advanced standing status. Such candidate shall be eligible for the award of the degree of Master of Laws upon successful completion of not less than 6 modules in this programme.

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### **Exit qualification**

LL 31. A candidate who has enrolled in the degree of Master of Laws in Chinese Law, or the degree of Master of Laws in Corporate and Financial Law, or the degree of Master of Laws in Information Technology and Intellectual Property Law, or the degree of Master of Laws in Human Rights and has completed satisfactorily 4 modules may qualify for the award of the corresponding Postgraduate Diploma (see regulations for the Postgraduate Diplomas for details). Such candidate is required to inform the Faculty Higher Degrees Committee as soon as possible after his or her completion of 4 modules, or in any case, not later than the commencement of the fourth academic year of study which is the last year of the maximum period of study allowed (exact date to be confirmed by the Faculty), whether he or she would like to opt for the above exit qualifications.

## **Publication**

LL 32. Any publication based on work approved for this degree should contain a reference to the effect that the work was submitted to the University of Hong Kong for the award of the degree.

## **SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS**

### **COURSEWORK**

The Board of Examiners shall decide what proportion of the final assessment for each module shall be determined by written work carried out during the course. Candidates will be informed at the beginning of the course of the relative proportions of the final assessment to be derived from coursework and from written examinations which will be held at the end of the teaching programme.

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### **PROGRAMMES**

The following programmes in the Master's programme are available:-

LL.M.

LL.M. in Chinese Law

LL.M. in Human Rights

LL.M. in Corporate & Financial Law

LL.M. in Information Technology & Intellectual Property Law

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### **MASTER OF LAWS (LLM)**

#### **OBJECTIVES**

The degree of Master of Laws is offered by the Faculty of Law to meet a need in various specialist areas of the law that are of importance to Hong Kong and its locality, and to offer modules which Hong Kong is perhaps uniquely placed to provide to students from both within and outside Hong Kong. The modules available at present focus upon international trade law, commercial law, Chinese law, information technology law, intellectual property law and public law (including human rights).

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#### **STRUCTURE**

Candidates are required to complete 8 modules. Candidates may choose modules from the module outlines below and modules from any of the specialist programmes, in any case, not more than 5 modules from each of the specialist programmes. Candidates may apply to substitute for not more than 2 modules by taking courses or modules offered by any other Department in the University. Such application shall be approved by the Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ modules from any other Department or Departments in the University are of equivalent standard to that or those listed in this syllabus. Permission will normally be granted only to take postgraduate course(s) or module(s), and only for those courses or modules which can be shown to have relevance to that candidate's overall course of study. Permission shall not be granted to substitute any other course or module for a compulsory module in the programme. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s) or module(s).

Candidates, on accepting a place, shall notify the Faculty Higher Degrees Committee of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

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## DISSERTATION

To be regarded as two modules a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic likewise approved not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

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## MODULE OUTLINES

### **PRC law**

#### *One module*

- . LLAW6115 Advanced seminar on Chinese law
- . LLAW6185 China investment law
- . LLAW6186 China trade law
- . LLAW6198 Chinese family law in comparative perspective
- . LLAW6003 Civil and commercial law in the People's Republic of China
- . LLAW6025 Company law and securities regulation in the People's Republic of China
- . LLAW6251 Comparative property law
- . LLAW6113 Constitutional and administrative law in the People's Republic of China
- . LLAW6171 Corruption: China in comparative perspective
- . LLAW6112 Criminal law and procedure in the People's Republic of China
- . LLAW6114 Cross-border legal relations between the Mainland and Hong Kong
- . LLAW6214 Current issues in Chinese law
- . LLAW6070 Human rights in the People's Republic of China
- . LLAW6212 Intellectual property protection in China: law, politics and culture
- . LLAW6008 Introduction to Chinese law and legal system
- . LLAW6056 Law and development in the People's Republic of China
- . LLAW6110 Law and regulation of banking and insurance in the People's Republic of China
- . LLAW6041 Legal Chinese in commercial transactions
- . LLAW6029 Managing commercial disputes in China: law, issues and techniques
- . LLAW6139 PRC information technology law
- . LLAW6047 PRC property law
- . LLAW6048 PRC security and insolvency law
- . LLAW6225 PRC shipping law (in Putonghua)
- . LLAW6201 PRC taxation law and policy
- . LLAW6167 PRC tort law
- . LLAW6213 Property protection in China: law, politics and culture
- . LLAW6134 Selected issues on WTO and China



- . LLAW6050 Taxation in the People's Republic of China
- . LLAW6211 World trade law, policy and business

## **Human rights and public law**

### *One module*

- . LLAW6021 Advanced administrative law
- . LLAW6228 Advanced legal theory
- . LLAW6183 Animal law
- . LLAW6058 Armed conflict, humanitarian law and human rights
- . LLAW6153 Business and human rights
- . LLAW6205 Clinical legal education
- . LLAW6232 Clinical legal education programme - refugee stream
- . LLAW6156 Comparative constitutional law
- . LLAW6226 Comparative constitutional law theories
- . LLAW6113 Constitutional and administrative law in the People's Republic of China
- . LLAW6220 Constitutionalism in emerging states
- . LLAW6059 Criminal justice and human rights
- . LLAW6112 Criminal law and procedure in the People's Republic of China
- . LLAW6233 Critical theory in legal scholarship
- . LLAW6114 Cross-border legal relations between the Mainland and Hong Kong
- . LLAW6060 Current issues in human rights
- . LLAW6061 Development and human rights
- . LLAW6062 Economic, social and cultural rights
- . LLAW6063 Equality and non-discrimination
- . LLAW6030 Equality and the law
- . LLAW6064 Ethnicity, human rights and democracy
- . LLAW6065 Freedom of speech and the press
- . LLAW6066 Gender issues in human rights
- . LLAW6067 Globalisation and human rights
- . LLAW6032 Hong Kong basic law
- . LLAW6033 Hong Kong environmental law
- . LLAW6119 Human rights and cyberspace
- . LLAW6069 Human rights and governance
- . LLAW6070 Human rights in the People's Republic of China
- . LLAW6034 Human rights in Hong Kong
- . LLAW6242 Human rights in practice
- . LLAW6071 Indigenous peoples and human rights
- . LLAW6036 International criminal law
- . LLAW6007 International dispute settlement
- . LLAW6038 International humanitarian law
- . LLAW6182 International organisations
- . LLAW6073 International protection of refugees and displaced persons
- . LLAW6231 Justice
- . LLAW6074 Labour rights and human rights
- . LLAW6199 Law and policy
- . LLAW6123 Law, the individual and the community : a cross-cultural dialogue
- . LLAW6179 Multiculturalism and the law
- . LLAW6075 National protection of human rights

- . LLAW6046 Privacy and data protection
- . LLAW6109 Public international law
- . LLAW6144 Rights and remedies in the criminal process
- . LLAW6240 Security and human rights
- . LLAW6221 Selected problems of the European convention on human rights
- . LLAW6076 Seminar in human rights research, sources and methodology
- . LLAW6215 Seminar on human rights and constitutionalism in Asia
- . LLAW6108 The child and the law
- . LLAW6077 The rights of the child in international and domestic law

## **Commercial, corporate and financial law**

### *One module*

- . LLAW6187 Advanced topics in competition law
- . LLAW6023 Arbitration law workshop
- . LLAW6024 Banking law
- . LLAW6150 Comparative law
- . LLAW6251 Comparative property law
- . LLAW6154 Competition law I
- . LLAW6155 Competition law II
- . LLAW6101 Competition, mergers and acquisitions
- . LLAW6245 Compliance in the Hong Kong securities industry
- . LLAW6255 Compliance: law in practice
- . LLAW6254 Compliance: regulation in practice
- . LLAW6027 Construction law
- . LLAW6252 Construction of commercial contracts
- . LLAW6207 Corporate conflicts
- . LLAW6082 Corporate governance and shareholder remedies
- . LLAW6002 Credit and security law
- . LLAW6206 Cross border corporate finance : issues and techniques
- . LLAW6084 Cross-border insolvency law
- . LLAW6086 Current issues in corporate law : mergers and acquisitions
- . LLAW6127 Current issues in financial law
- . LLAW6087 Current issues in insolvency law
- . LLAW6088 Derivatives: law and regulation
- . LLAW6210 Energy law
- . LLAW6222 Financial dispute resolution: Hong Kong and international perspectives
- . LLAW6194 Global business law I
- . LLAW6195 Global business law II
- . LLAW6005 Hong Kong intellectual property law
- . LLAW6107 Insurance law
- . LLAW6099 International commercial arbitration
- . LLAW6006 International commercial transactions
- . LLAW6007 International dispute settlement
- . LLAW6133 International economic law
- . LLAW6057 International securities law
- . LLAW6096 International tax and tax planning
- . LLAW6110 Law and regulation of banking and insurance in the People's Republic of China
- . LLAW6239 Law and regulation of private banking and wealth management I

- . LLAW6246 Law and regulation of private banking and wealth management II
- . LLAW6178 Law, economics, regulation and development
- . LLAW6055 Law of international finance I
- . LLAW6094 Law of international finance II
- . LLAW6102 Legal aspects of white collar crime
- . LLAW6224 Mergers and acquisitions
- . LLAW6097 Pension and investment funds in Hong Kong and the PRC
- . LLAW6098 Project finance
- . LLAW6093 Regulation of financial markets
- . LLAW6134 Selected issues on WTO and China
- . LLAW6049 Securities regulation I
- . LLAW6244 Securities regulation II
- . LLAW6051 The law of restitution

### **International and comparative law**

#### *One module*

- . LLAW6187 Advanced topics in competition law
- . LLAW6229 Arms control and disarmament law
- . LLAW6236 ASEAN law
- . LLAW6226 Comparative constitutional law theories
- . LLAW6248 Comparative contract law
- . LLAW6177 Comparative environmental law
- . LLAW6253 Comparative land use
- . LLAW6150 Comparative law
- . LLAW6209 Comparative family law
- . LLAW6251 Comparative property law
- . LLAW6154 Competition law I
- . LLAW6101 Competition, mergers and acquisitions
- . LLAW6249 Entertainment law: Popular iconography and the celebrity
- . LLAW6031 Hong Kong and international law
- . LLAW6035 International air law : structure and organisation
- . LLAW6006 International commercial transactions
- . LLAW6036 International criminal law
- . LLAW6007 International dispute settlement
- . LLAW6133 International economic law
- . LLAW6037 International environmental law
- . LLAW6038 International humanitarian law
- . LLAW6182 International organisations
- . LLAW6128 International trade law I
- . LLAW6129 International trade law II
- . LLAW6230 Law and practice of investment treaty arbitration
- . LLAW6052 Law of the sea
- . LLAW6043 Liabilities in international aviation
- . LLAW6134 Selected issues on WTO and China
- . LLAW6211 World trade law, policy and business

## **Admiralty and shipping**

### *One module*

- . LLAW6172 Carriage of goods by sea
- . LLAW6128 International trade law I

## **Information technology and intellectual property law**

### *One module*

- . LLAW6106 Advanced issues in information technology
- . LLAW6124 Communications law
- . LLAW6223 Copyright and creativity
- . LLAW6117 Cybercrime
- . LLAW6111 E-business law
- . LLAW6005 Hong Kong intellectual property law
- . LLAW6119 Human rights and cyberspace
- . LLAW6120 Intellectual property and information technology
- . LLAW6140 Intellectual property, innovation and development
- . LLAW6212 Intellectual property protection in China: law, politics and culture
- . LLAW6132 International and comparative intellectual property law
- . LLAW6170 Introduction to information technology law
- . LLAW6181 Management and commercialization of intellectual property
- . LLAW6176 Online dispute resolution
- . LLAW6219 Patent law
- . LLAW6139 PRC information technology law
- . LLAW6046 Privacy and data protection
- . LLAW6200 Trademarks and unfair competition

## **Others**

### *One / Two module(s)*

- . LLAW6054/ LLAW6014 Dissertation

### *One module*

- . LLAW6022 Advanced research methodology
- . LLAW6138 Arbitration law
- . LLAW6192 Arbitration in greater China
- . LLAW6238 Comparative arbitration in Asia
- . LLAW6209 Comparative family law
- . LLAW6137 Current issues in international arbitration and dispute settlement
- . LLAW6136 Dispute settlement in the WTO : practice and procedure
- . LLAW6222 Financial dispute resolution: Hong Kong & international perspectives
- . LLAW6216 Graduate seminar
- . LLAW6149 Healthcare law
- . LLAW6237 International arbitration: practice, process and strategy
- . LLAW6204 Introduction to common law

- . LLAW6227 Introduction to private international law (conflict of laws)
- . LLAW6184 Law and film
- . LLAW6175 Law and literature
- . LLAW6197 Law and social theory
- . LLAW6130 Law, justice & ideology
- . LLAW6202 Law, literature and film
- . LLAW6041 Legal Chinese in commercial transactions
- . LLAW6042 Legal fictions : representations of the law in literature, philosophy and cinema
- . LLAW6045 Postmodern legal theory
- . LLAW6196 Preventative law : approach to conflict prevention
- . LLAW6164 Principles of family law
- . LLAW6180 Space law and policy
- . LLAW6247 Medical-legal issues
- . LLAW6250 The regulation of biomedical research

NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.

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## MASTER OF LAWS IN CHINESE LAW (LLM[CHINESE LAW])

### OBJECTIVES

The degree of Master of Laws in Chinese Law is offered by the Faculty of Law to address an increasing need in Hong Kong and internationally for a more comprehensive understanding of the laws and regulations of the People's Republic of China. Hong Kong is uniquely placed to provide to students from Hong Kong and elsewhere courses on contemporary Chinese law developments from a comparative perspective which are conducted primarily in English.

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### STRUCTURE

Candidates are required to complete 8 modules. A dissertation can be equivalent to one module or two depending on its length (see below). A candidate may apply to choose up to 2 modules from courses or modules offered under the other specialist programmes or by any other Departments in the University or by any other approved Universities offering joint LLM programmes with the Faculty. Such application shall be approved by the Faculty Higher Degrees Committee which has to be satisfied that such course(s)/ module(s) from any other Department or Departments are of equivalent standard to those listed in this syllabus. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s) or module(s).

Candidates, on accepting a place, shall notify the Faculty Higher Degrees Committee of the modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

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### DISSERTATION

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic likewise approved not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

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### MODULE OUTLINES

#### *One/Two module(s)*

. LLAW6054/ LLAW6014 Dissertation

#### *One module*

. LLAW6022 Advanced research methodology

- . LLAW6115 Advanced seminar on Chinese law
- . LLAW6185 China investment law
- . LLAW6186 China trade law
- . LLAW6198 Chinese family law in comparative perspective
- . LLAW6003 Civil and commercial law in the People's Republic of China
- . LLAW6025 Company law and securities regulation in the People's Republic of China
- . LLAW6226 Comparative constitutional law theories
- . LLAW6248 Comparative contract law
- . LLAW6253 Comparative land use
- . LLAW6251 Comparative property law
- . LLAW6113 Constitutional and administrative law in the People's Republic of China
- . LLAW6171 Corruption: China in comparative perspective
- . LLAW6112 Criminal law and procedure in the People's Republic of China
- . LLAW6114 Cross-border legal relations between the Mainland and Hong Kong
- . LLAW6214 Current issues in Chinese law
- . LLAW6111 E-business law
- . LLAW6070 Human rights in the People's Republic of China
- . LLAW6212 Intellectual property in China: law, politics and culture
- . LLAW6008 Introduction to Chinese law and legal system
- . LLAW6110 Law and regulation of banking and insurance in the People's Republic of China
- . LLAW6056 Law and development of the People's Republic of China
- . LLAW6041 Legal Chinese in commercial transactions
- . LLAW6029 Managing commercial disputes in China: law, issues and techniques
- . LLAW6165 PRC economic law
- . LLAW6139 PRC information technology law
- . LLAW6047 PRC property law
- . LLAW6225 PRC shipping law (in Putonghua)
- . LLAW6048 PRC security and insolvency law
- . LLAW6201 PRC taxation law and policy
- . LLAW6167 PRC tort law
- . LLAW6213 Property protection in China: law, politics and culture
- . LLAW6134 Selected issues on WTO and China
- . LLAW6050 Taxation in the People's Republic of China
- . LLAW6211 World trade law, policy and business

NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.

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## **MASTER OF LAWS IN HUMAN RIGHTS (LLM[HR])**

### **OBJECTIVES**

The degree of Master of Laws in Human Rights is offered by the Faculty of Law as a response to the increasing interest in human rights in Asia and globally. It also responds to the growing need to provide training that addresses important international, regional and national developments in human rights and its implementation. The programme therefore provides a substantial grounding in international law as it relates to the study and practice of human rights, and where appropriate, draws from other disciplines to provide a balanced and contextual understanding of the major issues. The programme ensures that participants are exposed to universal human rights issues and the perspectives of other regional systems, but it is characterised by a strong Asia focus. It draws from the many human rights issues in Asia, and examines some of the perspectives and problems which are of particular concern to the region.

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### **STRUCTURE**

Candidates are required to complete 8 modules. Three modules are compulsory. A candidate may apply to choose the remaining five modules from among the optional modules developed by the Faculty of Law for the Master of Laws in Human Rights programme or, with the approval of the Faculty Higher Degrees Committee, up to 2 modules from modules/ courses offered under the other specialist programmes or by any other Department in the University or by any other approved Universities offering LLM programmes. Such application shall be with the support of the Director of the Master of Laws in Human Rights programme and approved by the Faculty Higher Degrees Committee. Both must be satisfied that such course(s)/module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus and are relevant to the study of human rights. Candidates are also required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s)/module(s).

Candidates, on accepting a place, are required to notify the Faculty Higher Degrees Committee of the modules which they are interested in following. The selection of modules shall, however, be subject to approval by the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the modules listed will be available.

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### **DISSERTATION**

Candidates for the Master of Laws in Human Rights may choose to satisfy an independent writing requirement which is the equivalent of one module. This requirement may be satisfied by the submission of a one-module dissertation on a legal topic approved by the Director of LLM in Human Rights and the Faculty Higher Degrees Committee. A one-module dissertation shall not exceed 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies).

Candidates may also apply to take a two modules dissertation. To be regarded as two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Director of LLM in Human Rights and the Faculty Higher Degrees Committee.



In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument

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## COURSE OUTLINES

### *Compulsory Modules (One module)*

- . LLAW6068 Human rights: history, theory and politics
- . LLAW6072 International and regional protection of human rights
- . LLAW6075 National protection of human rights

### *Optional Modules*

#### *One/ Two module(s)*

- . LLAW6054/ LLAW6014 Dissertation

#### *One module (Optional human rights modules)*

- . LLAW6058 Armed conflict, humanitarian law and human rights
- . LLAW6153 Business and human rights
- . LLAW6232 Clinical legal education programme - refugee stream
- . LLAW6220 Constitutionalism in emerging states
- . LLAW6059 Criminal justice and human rights
- . LLAW6152 Dealing with legacies of human rights violations
- . LLAW6061 Development and human rights
- . LLAW6062 Economic, social and cultural rights
- . LLAW6063 Equality and non-discrimination
- . LLAW6064 Ethnicity, human rights and democracy
- . LLAW6065 Freedom of speech and the press
- . LLAW6066 Gender issues in human rights
- . LLAW6067 Globalisation and human rights
- . LLAW6119 Human rights and cyberspace
- . LLAW6069 Human rights and governance
- . LLAW6151 Human rights in Asia
- . LLAW6070 Human rights in the People's Republic of China
- . LLAW6034 Human rights in Hong Kong
- . LLAW6242 Human rights in practice
- . LLAW6071 Indigenous peoples and human rights
- . LLAW6073 International protection of refugees and displaced persons
- . LLAW6231 Justice
- . LLAW6074 Labour rights and human rights
- . LLAW6179 Multiculturalism and the law
- . LLAW6144 Rights and remedies in the criminal process
- . LLAW6240 Security and human rights
- . LLAW6221 Selected problems of the European convention on human rights
- . LLAW6076 Seminar in human rights research, sources and methodology
- . LLAW6215 Seminar on human rights and constitutionalism in Asia

. LLAW6077 The rights of the child in international and domestic law

*One module (Other related optional modules)*

- . LLAW6228 Advanced legal theory
- . LLAW6229 Arms control and disarmament law
- . LLAW6205 Clinical legal education
- . LLAW6112 Criminal law and procedure in the People's Republic of China
- . LLAW6036 International criminal law
- . LLAW6007 International dispute settlement
- . LLAW6037 International environmental law
- . LLAW6038 International humanitarian law
- . LLAW6189 International law and modernity for a multipolar world
- . LLAW6190 International law in a world of crises
- . LLAW6182 International organisations
- . LLAW6123 Law, the individual and the community : a cross-cultural dialogue
- . LLAW6199 Law and policy
- . LLAW6146 Law and religion
- . LLAW6046 Privacy and data protection
- . LLAW6109 Public international law
- . LLAW6108 The child and the law

NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.

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## **MASTER OF LAWS IN CORPORATE AND FINANCIAL LAW (LLM [CFL])**

### **OBJECTIVES**

As a major international business and financial centre, Hong Kong is a logical centre for advanced study in areas of commercial, corporate and financial law. Designed as a coherent programme specially geared towards the needs of those working or desiring to work in commercial, corporate and/or financial business, this programme focuses on issues relating to corporate and financial activities and the role of law and regulation in finance and business. On completion of the programme, students should have a broad and reliable knowledge and understanding of corporate and financial law in Hong Kong, in the Asian region and other major jurisdictions internationally.

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### **STRUCTURE**

Candidates are required to complete 8 modules, of which 6, including the two compulsory modules, must be commercial, corporate and financial law courses. A candidate may choose up to 2 modules / courses from modules / courses offered under the specialist postgraduate programmes offered by the Faculty of Law or, with permission, by any other Department in the University or by any other approved Universities offering joint LLM programmes with the Faculty. Such application shall be approved by the Faculty Higher Degrees Committee which has to be satisfied that such course(s) / module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s). A dissertation can be equivalent to one module or two depending on its length (see below).

Candidates, on accepting a place, shall notify the Faculty Higher Degrees Committee of the optional courses which they wish to follow. The selection of courses shall, however, be subject to approval by the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the courses listed will be available

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### **DISSERTATION**

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic likewise approved not exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical legal analysis and argument.

The Faculty Higher Degrees Committee may, with the agreement of the student's supervisor, permit a student to undertake a writing project other than a dissertation to the value of one or two module(s). In appropriate circumstances, the Faculty Higher Degrees Committee may permit this written project to be completed in conjunction with an internship with a relevant organisation.

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## MODULE OUTLINES

### *Compulsory modules (one module)*

- . LLAW6055 Law of international finance I

Candidates must take at least one module from the following list:

- . LLAW6025 Company law and securities regulation in the People's Republic of China
- . LLAW6207 Corporate conflicts
- . LLAW6082 Corporate government and shareholders remedies

### *Optional Modules*

#### *One / Two module(s)*

- . LLAW6054/ LLAW6014 Dissertation

#### *One module*

- . LLAW6187 Advanced topics in competition law
- . LLAW6236 ASEAN law
- . LLAW6024 Banking law
- . LLAW6153 Business and human rights
- . LLAW6172 Carriage of goods by sea
- . LLAW6185 China investment law
- . LLAW6186 China trade law
- . LLAW6124 Communications law
- . LLAW6025 Company law and securities regulation in the People's Republic of China
- . LLAW6248 Comparative contract law
- . LLAW6154 Competition law I
- . LLAW6155 Competition law II
- . LLAW6101 Competition, mergers and acquisitions
- . LLAW6245 Compliance in the Hong Kong securities industry
- . LLAW6252 Construction of Commercial Contracts
- . LLAW6207 Corporate conflicts
- . LLAW6082 Corporate governance and shareholder remedies
- . LLAW6002 Credit and security law
- . LLAW6206 Cross border corporate finance : issues and techniques
- . LLAW6084 Cross-border insolvency law
- . LLAW6214 Current issues in Chinese law
- . LLAW6086 Current issues in corporate law : mergers and acquisitions
- . LLAW6127 Current issues in financial law
- . LLAW6087 Current issues in insolvency law
- . LLAW6088 Derivatives: law and regulation
- . LLAW6111 E-business law
- . LLAW6210 Energy law
- . LLAW6222 Financial dispute resolution: Hong Kong and international perspectives
- . LLAW6194 Global business law I

- . LLAW6195 Global business law II
- . LLAW6107 Insurance law
- . LLAW6099 International commercial arbitration
- . LLAW6006 International commercial transactions
- . LLAW6133 International economic law
- . LLAW6057 International securities law
- . LLAW6128 International trade law I
- . LLAW6129 International trade law II
- . LLAW6096 International tax and tax planning
- . LLAW6110 Law and regulation of banking and insurance in the People's Republic of China
- . LLAW6239 Law and regulation of private banking and wealth management I
- . LLAW6246 Law and regulation of private banking and wealth management II
- . LLAW6230 Law and practice of investment treaty arbitration
- . LLAW6178 Law, economics, regulation and development
- . LLAW6094 Law of international finance II
- . LLAW6102 Legal aspects of white collar crime
- . LLAW6181 Management and commercialization of intellectual property
- . LLAW6224 Mergers and acquisitions
- . LLAW6097 Pension and investment funds in Hong Kong and the PRC
- . LLAW6165 PRC economic law
- . LLAW6048 PRC security and insolvency law
- . LLAW6098 Project finance
- . LLAW6213 Property protection in China: law, politics and culture
- . LLAW6093 Regulation of financial markets
- . LLAW6049 Securities regulation I
- . LLAW6244 Securities regulation II
- . LLAW6134 Selected issues on WTO and China
- . LLAW6050 Taxation in the People's Republic of China
- . LLAW6211 World trade law, policy and business

NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.

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## **MASTER OF LAWS IN INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY LAW (LLM [IT&IPL])**

### **OBJECTIVES**

The principal objective of the degree of Master of Laws in Information Technology and Intellectual Property Law is to offer a range of modules that provide a sound legal understanding of various aspects of the rapidly developing field of information technology which involve components of intellectual property whether they be the patentability of computer software, internet business methods and other technologies, hyperlink, deep link, cache and framing as copyright infringement; technology licensing; copyright in computer programs; circumvention of technological protection measures; criminality of pirating copyright works online; semi-conductor chip; and decompilation of computer code. Subject areas will be regularly expanded and updated to ensure that students are able to understand and analyze contemporary legal issues in this area.

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### **STRUCTURE**

Candidates are required to complete 8 modules, including at least two modules from each sub-stream. A candidate is required to take not less than two or up to four additional modules from the modules offered within these two sub-streams or the additional optional modules listed under this programme, which may or may not include the completion of either a two-module or one-module dissertation. A candidate may apply to choose up to 2 modules either from among the modules developed under the other specialist programmes or, with the approval of the Faculty Higher Degrees Committee, from module(s)/ course(s) offered within or outside the Faculty. Such application shall be approved by the Faculty Higher Degrees Committee who has to be satisfied that such course(s)/ module(s) from any other Department or Departments are of equivalent standard to that or those listed in this syllabus. Candidates are required to obtain the approval of the Head(s) of the Department(s) which offer(s) the substitute course(s). Those optional modules listed in this syllabus which are offered by the Department of Computer Science are exempted from the approval procedures mentioned above.

Candidates who do not hold an undergraduate degree in law shall be required by the Faculty Higher Degrees Committee to complete, amongst the 8 modules of this programme, up to 2 modules of foundational law courses to be defined by the Committee at the time of admission.

Candidates, on accepting a place, shall notify the Faculty Higher Degrees Committee of the optional modules which they wish to follow. The selection of modules shall, however, be subject to approval by the Faculty Higher Degrees Committee in the light of the availability of resources. In any academic year only some of the courses listed will be available.

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### **DISSERTATION**

To be regarded as equivalent to two modules, a dissertation shall comprise a paper not exceeding 20,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies) on a legal topic approved by the Faculty Higher Degrees Committee. A one-module dissertation shall comprise a paper on a legal topic likewise approved not

exceeding 10,000 words (exclusive of tables of cases and statutes, notes, appendices and bibliographies). In both cases the dissertation must provide evidence of original work and a capacity for critical legal analysis and argument.

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## COURSE OUTLINES

### **Intellectual property law sub-stream**

(Candidates must choose at least two modules from this sub-stream)

#### *One module*

- . LLAW6243 Advanced issues in intellectual property law
- . LLAW6223 Copyright and creativity
- . LLAW6005 Hong Kong intellectual property law
- . LLAW6132 International and comparative intellectual property law
- . LLAW6120 Intellectual property and information technology
- . LLAW6140 Intellectual property, innovation and development
- . LLAW6212 Intellectual property protection in China: law, politics and culture
- . LLAW6181 Management and commercialization of intellectual property
- . LLAW6219 Patent law
- . LLAW6200 Trademarks and unfair competition

### **Information technology law sub-stream**

(Candidates must choose at least two modules from this sub-stream)

#### *One module*

- . LLAW6124 Communications law
- . LLAW6117 Cybercrime
- . LLAW6111 E-business law
- . LLAW6170 Introduction to information technology law
- . LLAW6176 Online Dispute Resolution
- . LLAW6139 PRC information technology law
- . LLAW6046 Privacy and data protection
- . LLAW6141 Regulation of cyberspace: theories of internet and normativity

### **Optional modules** (*Department of Law*)

#### *One/ Two module(s)*

- . LLAW6054/ LLAW6014 Dissertation

#### *One module*

- . LLAW6106 Advanced issues in information technology law
- . LLAW6187 Advanced topics in competition law
- . LLAW6249 Entertainment law: Popular iconography and the celebrity
- . LLAW6119 Human rights and cyberspace

. LLAW6188 Intellectual property policy and practice

**Optional modules** (*Department of Computer Science*)

*One module*

. ECOM6032 e-Discovery and digital forensics

. ICOM6027 e-Crimes: digital crime scene and legal sanctions

NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.

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## **COURSE DESCRIPTIONS**

### **LAW MODULES**

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#### **LLAW6002 Credit and security law**

The legal aspects of supplying and securing credit in respect of consumers and companies; the legal means of taking security over different types of property.

The forms of credit and security are divided into the "real" securities and the "quasi-securities". The real securities are: charges, mortgages, pledges and common law liens. The quasi-securities include hire-purchase, bills of sale, assignments of the benefit of a chose in action, sales and re-sales, finance leases, retention of title transactions, and many other forms usually involving indirect money lending. All of these forms of security are available to consumers as well as corporate borrowers. A common corporate loan is a charge over book debts. A common consumer loan transaction is a mortgage over land.

Topics to be studied include:

- the concept of security,
- the role of equity in security transactions, real and personal securities,
- types of business finance,
- insolvency,
- drafting of documentation to achieve particular purposes,
- reviewing new or novel forms of property, eg carbon sequestration;
- reviewing overseas developments in codifying commercial law; and
- remedies.

Assessment: 20% class participation, 80% examination

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#### **LLAW6003 Civil and commercial law in the People's Republic of China**

Topics to be covered include: the law of person, agency, property, obligations (contracts, torts etc), family and succession, with an introduction to traditions, reforms, civil procedure and modes of alternative dispute resolution. Each topic is discussed in light of recent developments in China, such as corporatization of Chinese enterprises, experiments in bankruptcy, contract employment and regulating the new urban real estate market. Reading knowledge of Chinese helpful but not required. No prerequisite.

Assessment: 100% continuous assessment

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#### **LLAW6005 Hong Kong intellectual property law**

A comparative study of the Hong Kong law relating to patents, copyright, registered designs, trade marks, trade secrets, trade descriptions, common law remedies including and akin to passing off and injurious falsehood, and associated rights in information. Previous study or practice in the area of intellectual property would be an advantage but is not essential provided

some preliminary private study is undertaken.

Assessment: 0% or 30% optional assignment, 100% or 70% take home examination

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### **LLAW6006 International commercial transactions**

The topic of International commercial transactions touches on a number of legal frameworks that govern international business. The various frameworks consist of a patchwork of national and international, governmental and private-sector laws, agreements and mandatory or voluntary codes of conduct. This course will be presented in four parts, and in each part, relevant laws and decisions of tribunals in various jurisdictions in Asia are comparatively considered to present a range of issues arising in contemporary practice. It will begin with an introduction and examination of commercial and legal implications of terms-of-art frequently used in international sales agreements, shipping contracts, insurance and financing arrangements, and customs documentation. International efforts to unify or harmonise definitions and their legal implications, as well as rules that govern the interpretation of contractual terms, such as the 2000 Inco-terms, ICC Uniform Customs and Practice for Documentary Credits, 1980 Vienna Convention on the International Sale of Goods, and UNIDROIT principles, will be discussed. Agency, distribution, technology and intellectual property transfers, and e-commerce, as widespread and emerging modes of conducting international business, the legal issues inherent in each form, and associated regulation will be considered. Issues related to international investment agreements involving governments will be examined. Special problems related to corruption and money-laundering will be discussed. Significant attention will be paid to the settlement of international commercial and investment disputes, which will include an examination of special problems associated with the recognition and enforcement of awards and judgments.

Assessment: 100% continuous assessment

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### **LLAW6007 International dispute settlement**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.” Inasmuch as these peaceful means of dispute settlement are governed by a body of rules and principles, lawyers play an important role in making sure that such means are used in a fair and effective manner. After explaining the history and development of international dispute settlement, as well as the general obligation on states to resolve their disputes peacefully, this course will explore each method in light of the relevant law and cases, with particular emphasis being placed on legal resolution through international courts and tribunals, including international arbitration and resolution through the International Court of Justice, the International Tribunal for the Law of the Sea, and the WTO Dispute Settlement Mechanism. The course concludes by looking at the future of international dispute settlement, including the need for conflict prevention and dialogue, the increasing juridification of dispute settlement, and the problems associated with the proliferation of dispute settlement mechanisms.

Assessment: 20% participation, 80% research paper

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## **LLAW6008 Introduction to Chinese law and legal system**

The objective of this course is to introduce students to the study of Chinese law as a developing legal system. Law as contemporary lawyers understand it didn't emerge spontaneously in traditional Chinese society. It has developed in China as part of the modernization project since the second half of 19th century. Since 1978, in order to initiate and carry out economic reforms, within a short period of time the Chinese Party-State has generated an extraordinary outpouring of laws. However, China has not been widely recognised as a "rule of law" society until now, due to the lack of some key institutional values that are "essential" to such a society. This seminar shall examine the traditional Chinese ways of governing before China encountered modernity, the structure and roles of contemporary Chinese legal institutions, constitutional law, administrative law, criminal justice and civil procedure from historical and comparative perspectives.

Assessment: 10% class participation, 90% take home examination

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## **LLAW6021 Advanced administrative law**

This is an advanced course in administrative law which focuses on the decision-making process of administrative bodies. Topics covered include theories of administrative decision making, the procedure and content of administrative decision making, judicial (*ultra vires*, procedural fairness, estoppel and other limits on the exercise of discretionary power) and extra-judicial (ombudsman and other non-curial bodies) control of administrative action, the practical and procedural aspects of bringing an application for judicial review under Order 53 of the Supreme Court Ordinance, access to information (including the right to be given reasons and use of discovery proceedings), *habeas corpus* and remedies (including restitution). Emphasis will also be placed on subordinate legislation and the operation of some administrative tribunals.

Assessment: 100% continuous assessment

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## **LLAW6022 Advanced research methodology**

This is an introductory course focusing on how to conceptualise and execute both doctrinal and empirical legal research projects. The course will briefly examine the philosophical issues that undergird such research, along with the nuts and bolts of actual research methods. At the end of this course, students should have a good sense of a range of research methods (both qualitative and quantitative) as well as a sense of how to think about the kinds of research problems that will provide the core of a RPG thesis.

The main intellectual agenda will be to develop a sophisticated and rigorous sense of how to ask-and answer-a scholarly research question concerning the workings of law, using both legal doctrine and social science and related data.

Students should note that this course includes a practicum, where they will be asked to write a research proposal and to execute a small pilot study of their proposed research.

The assigned reading materials are included in the course reader. The materials include both descriptions of legal research methods along with sample articles/chapters demonstrating the implementation of these methods in practice.

Assessment: 100% research prospectus

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### **LLAW6023 Arbitration law workshop**

The arbitration law workshop is intended to introduce students to the practice of arbitration. The workshop adopts a different approach than traditional arbitration courses which tend to focus in the abstract upon institutional rules. The workshop emphasises a problem solving approach to learning about arbitration instead. The change is accomplished by running the workshop around a single model case study. The case study is entitled the *Sanctuary House Case*. It has been developed by Mark Cato, an experienced arbitrator and author. The case study unfolds in story form from the introduction of individuals through interlocutories to hearing and award to illustrate all the principal elements of arbitration law, practice and procedure in both a readable and entertaining way. In this manner the workshop highlights arbitration problems and teaches about practical solutions. The workshop's objective is thus to close the gap between the theory of arbitration and knowledge of the rules with actual management of an arbitration case in practice.

Assessment: 100% continuous assessment

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### **LLAW6024 Banking law**

This course is intended to provide an introduction to the major issues in banking law in Hong Kong. It is concerned

- with the law governing the nature of the contract (and its termination) of the banker-customer relationship;
- legal issues arising in relation to special types of accounts such as joint accounts, trust accounts, professionals and various types of business associations;
- banker's duties including confidentiality and the duty of care;
- fiduciary duties;
- lending and investment services, including securities and guarantees/indemnities;
- the role of the bank in documentary credits, and the growing stress on autonomy of these documents;
- banker's rights including appropriation of payment, the lien and set-off;
- bills of exchange;
- newer developments including shadow banking, Islamic finance, charge-backs, non-performing loans and others

In the financing area, there will be an introduction to the key issues relating to bank loans and banker's security, and an in-depth study of autonomous payment obligations including guarantees, standby letters of credit and performance bonds. There will be discussion on a new development in relation to proposals for "implied good faith" to operate contrary to the

principle of autonomy.

Students who enrol in this course are expected to be familiar with the common law of contract and trust.

Assessment: 20% class participation, 80% examination

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### **LLAW6025 Company law and securities regulation in the People's Republic of China**

This course covers both company law and securities regulation in the People's Republic of China. The part on company law involves an examination of the legal framework governing the structure and organization of business corporations and the responsibilities of and protection afforded various groups participating in a corporation's affairs, in particular, shareholders, creditors and management. The basic conceptual framework reflected in modern corporate legislation, and especially recent Chinese statutes, regulations, and administrative rules is emphasised, with particular attention to the concept of corporate entity, scope of business activities, shareholders' rights and responsibilities, directors' duties, the governance of joint stock companies, management and control of limited companies. The part on securities regulation involves an analysis of the scheme of securities regulation in the PRC. Topics covered will include efficient capital markets, types of securities and capital structure, agency theory, portfolio theory, regulation of primary market offerings, trading in secondary markets, inside trading, mergers and acquisitions, stock exchanges, and securities market professionals.

Assessment: 100% research paper

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### **LLAW6027 Construction law**

The purpose of this course is to provide an introduction to the subject of construction law in Hong Kong. It will consist of three main areas: (a) an introduction to the topic and the importance of the sector to the local economy; the professionals engaged in construction and their regulation; the forms of contract and standard forms of agreement in use locally; (b) the legal framework for construction activities in Hong Kong including the relevant legislation e.g. Buildings Ordinance, Town Planning Ordinance etc; contract law and procedures; substantive law issues, and dispute resolution; and (c) construction practice for solicitors with attention to drafting, project structures and general advice for construction clients.

Assessment: 100% continuous assessment

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### **LLAW6029 Managing commercial disputes resolution in China: law, issues and techniques**

This course takes students to the areas of significance in the field of dispute resolution in Mainland China, particularly with respect to resolving business and commercial disputes. All major methods of dispute resolution will be examined, including civil litigation, commercial arbitration, and mediation in Mainland China. Some topical issues such as corporate disputes, securities enforcement, private international law, civil justice reform, and cross-border judicial assistance on commercial matters with Hong Kong, Macau and Taiwan will be looked into as

well.

Assessment: 70% Research paper, 20% In-class presentation, 10% Class participation

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### **LLAW6030 Equality and the law**

Significant protection against discrimination under the law of Hong Kong has been available only since the enactment of the Hong Kong Bill of Rights Ordinance in 1991 and the passage of sex and disability discrimination legislation in 1995. These focused considerable attention on the existence of patterns of discrimination in Hong Kong.

The purpose of this course is to explore the theoretical foundations and practical efficacy of the models of equality and non-discrimination underlying Hong Kong's anti-discrimination laws. The course will examine from a historical perspective the existence of institutionalised discrimination in Hong Kong and the reasons for its persistence, as well as the failure of the common law to address these issues. The background to the enactment of anti-discrimination and equal opportunities laws in Hong Kong will also be examined. Aspects of the substantive law of non-discrimination -- including comparative and international material will also be considered. Finally, the efficacy of law (and of the Hong Kong law and institutions in particular) as an instrument for addressing inequality will be discussed. The course will focus on different aspects of the problem of inequality and the role of law from year to year.

Assessment: 100% continuous assessment

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### **LLAW6031 Hong Kong and international law**

The course is divided into two parts: (a) international law -- a conceptual review and (b) application of international legal norms in the Hong Kong context. The topics covered in the first part include the nature, origin and basis of international law; sources of international law; international legal personality; jurisdiction; international responsibility; international intercourse (treaties); and international disputes (peaceful and forcible means of dispute settlement). The issues to be studied under the second part of the course are: the place of international law in the Hong Kong legal system; Hong Kong as an 'international legal person' (including 'autonomy' and 'internal self determination'); jurisdiction in a 'highly autonomous region' -- the case of Hong Kong; Hong Kong's international obligations (e.g. treatment of aliens, environmental protection); international treaty law as applied in Hong Kong; and 'one country, two systems' as a model of peaceful settlement of disputes.

Assessment: 100% continuous assessment

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### **LLAW6032 Hong Kong Basic Law**

Topics to be covered include: the background to the Basic Law: the Sino-British negotiations, the Joint Declaration, the process of drafting and agreeing on the Basic Law; basic Chinese and British constitutional concepts relevant to an understanding of the structure and orientation of the Basic Law; the relationship of the Basic Law to the Constitution; the relationship of the Hong Kong Special Administrative Region and the Chinese central government; the institutional structure of the Hong Kong SAR, especially the relationship between the

executive and the legislature, and the concept of 'executive-led government'; the concept and special aspects of 'one country, two systems' - especially the preservation of the Hong Kong economic system in the Basic Law; the legal system under the Basic Law; human rights, judicial review and constitutional litigation; the Bill of Rights and the Basic Law; nationality issues under the Basic Law; interpretation of the Basic Law; transitional issues (at least the first time the course is taught - the relationship between the Provisional Legislature and the Basic Law etc.).

Assessment: 100% continuous assessment

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### **LLAW6033 Hong Kong environmental law**

Introduction: the Hong Kong environment; contextual factors affecting the environment and environmental law in Hong Kong. Overview of Hong Kong's environmental law, strategy and techniques. Techniques of environmental protection I: traditional approaches including the common law, nuisance, *Rylands v Fletcher*. Techniques of environmental protection II: the criminal law, interpretation of legislation, penalties. Techniques of environmental protection III: licensing and permits. Techniques of environmental protection IV: standards, objectives, technical memoranda, codes of practice, how they are used, what is their legal force, how they compare with international standards. Techniques of environmental protection V: Planning - territorial planning, town planning. Techniques of environmental protection VI: Environmental impact assessment. Techniques of environmental protection VII: Preventing pollution, energy conservation. Expanding liability: the liability of Directors, the liability of lenders. Conservation and the law. Rounding up.

On the whole the emphasis will not be on medium (water, air, waste etc.), but rather on techniques, since many of the same techniques, and similar issues of statutory interpretation, enforcement etc., occur across media. But examples and issues will be drawn from a variety of contexts. It would be possible to look at one problem (water or air or chemical waste for example) in detail.

Assessment: 100% continuous assessment

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### **LLAW6034 Human rights in Hong Kong**

History of enactment, the Bill of Rights Regime, ICCPR, implementation of human rights treaties, Basic Law, interpretation, scope of application, inter-citizen rights, locus standi, permissible limitations, derogation and reservation, enforcement and remedy.

Study of selected rights, including civil and political rights, economic, social & cultural rights and people's rights. Topics covered include impact on civil and criminal process, right to a fair and public trial, arrest, search and seizure, torture and degrading treatment, liberty and security of person, freedom of association and assembly, freedom of expression, right to nationality, right to family, right to political participation, discrimination and equality, right to housing, social security, education and the environment.

Assessment: 30% short paper, 70% research paper

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### **LLAW6035 International air law: structure and organisation**

This course deals comprehensively with the treaty structure in international air law. As such, it stands alone as a basic introduction to international air law.

More specifically, the course encompasses a study of the basic organization of international air law : Chicago convention and ICAO; the ‘crime’ treaties governing offences on board and against aircraft as well as hijacking; the liabilities regime of treaties; international controls/treaties concerning commercial operations, IATA and bilateral air services agreements.

It is envisaged that this course should deal with not only international law, but how these treaties etc are implemented in both Hong Kong and PRC law.

Assessment: 100% continuous assessment

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### **LLAW6036 International criminal law**

This course explores the rationale, origins, normative development, institutional mechanisms and role of international criminal law. To do this, we trace the roots of international criminal law in customary laws of war and early attempts to enforce rules prohibiting war crimes, before reviewing the operation of the Nuremberg and Tokyo International Military Tribunals that were established after the Second World War. We then take account of the Geneva Conventions, 1949, and the rise of international human rights law, focusing on the crimes of aggression, genocide, war crimes and crimes against humanity. We then delve into the law and practice of the ad hoc International Criminal Tribunals for the former Yugoslavia and Rwanda and relate their establishment and operation to the emerging system of international criminal law, and the process under way to establish the International Criminal Court. Other problems of international crime, including terrorism, drug-trafficking, hostage-taking and hijacking, also will be considered against the backdrop of the domestic and international socio-political realities of our time.

Assessment: 80% research paper, 10% court or tribunal presentation, 10% class participation

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### **LLAW6037 International environmental law**

The past few decades has witnessed the rise of Asia as one of the world’s most economically vibrant regions. Asia’s economic boom has unfortunately been accompanied by severe environmental degradation. Air pollution, deforestation, biodiversity loss, are just some of the many environmental problems that Asia faces today. In addition, global environmental problems such as climate change are at the top of the international agenda. No longer considered solely the purview of the environmentalist or social activist, environmental regulation and law touch upon nearly all aspects of social, economic and political life.

This course aims to provide students with a contextual understanding of the key global environmental issues of the day and the legal solutions. After a broad survey of the field of international environmental law, this course will focus on some key areas which provide fertile ground for exploring the major innovations and controversies in international environmental



governance. These key areas will include hazardous waste, and the illegal wildlife trade.

Classes will be conducted largely in a seminar format. Preparation and participation are crucial. A background in subjects such as Public international law, Global administrative law and Environmental law will be helpful but there are no prerequisites for this course.

Assessment: 50% Research paper; 30% Take home examination; 20% group presentation

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### **LLAW6038 International humanitarian law**

International Humanitarian Law (IHL), also known as the Law of Armed Conflict, is the body of rules and principles that govern how forces are to act once hostilities have broken out. The IHL regime is designed to make armed conflict less barbaric by protecting certain groups, such as civilians, wounded, sick, shipwrecked, prisoners of war, and religious personnel, and by prohibiting certain methods and means of warfare. This course critically explores these rules and principles, as well as their application in various situations, with the aim to better promoting the objectives of this regime. Emphasis also is placed on developing creative ways to improve this legal regime.

Assessment: 100% continuous assessment

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### **LLAW6041 Legal Chinese in commercial transactions**

This course is taught in Putonghua (Mandarin). It combines the study of substantive Chinese law with the development of practical linguistic skills useful for conducting legal business in the PRC. Using original materials (statutes, Supreme People's Court and administrative documents, case reports and commentaries), the course will explore how the law in China operates in its indigenous environment, in both domestic and foreign/Hong Kong-related cases. Students are required to learn to discuss, in Putonghua, selected PRC civil and commercial law topics and to practise drafting legal documents in Chinese as well as English-Chinese and Chinese-English translation. Classes will consist of alternate lectures and group discussion/evaluation sessions.

Examination will be conducted in Chinese. A reading knowledge of Chinese and basic Putonghua comprehension are required.

Assessment: 100% continuous assessment

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### **LLAW6042 Legal fictions: representations of the law in literature, philosophy and cinema**

This course will examine the representation of law in a variety of contexts: literary, philosophical and cinematic. Issues such as justice, rights, the rule of law, positivism, the language of the law, the trial and the role of the profession will be canvassed through 'texts' as varied as Plato's *Republic*, Sophocles's *Antigone*, Mary Shelley's *Frankenstein*, Melville's *Bartleby the Scrivener*, Dickens's *A Tale of Two Cities* (or, alternatively, *Bleak House*), Kafka's *The Trial* (or *Before the Law*), Dworkin's *Law's Empire*, Foucault's *Discipline and Punish*,

*Witness for the Prosecution*, *Judgement at Nuremberg* and perhaps a sampling of various television series ('Rumpole', 'L.A. Law', 'Perry Mason', 'Street Legal' and possibly the OJ Simpson trial).

How the law is 'imagined' by these various 'texts' constitutes an important social document, unlocking, to a certain extent, the values -- moral, political, juridical -- of the culture that produced the document. But this course will argue that these representations of the law do more than just 'hold up a mirror to nature'; indeed, they force us to rethink the law, reconceiving it, as well, as a representation -- in short, a text, subject to the same conventions of aesthetic representation. So the course will conclude by examining actual legal judgements, and how those judgements are informed by narrative conventions, plot structures, novelistic characterisation and constitutive metaphors.

Assessment: 100% continuous assessment

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### **LLAW6043 Liabilities in international aviation**

This course encompasses a study of all aspects of air carriage liabilities.

In particular, there will be close examination of air carrier liabilities (passengers and freight), manufacturers' liability, airport liabilities, governmental liability (certification/security), pilot and other alternative liabilities in the event of loss or damage being caused in the course of air carriage.

Assessment: 100% continuous assessment

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### **LLAW6045 Postmodern legal theory**

This is a course in legal theory examining the impact upon that field of 'post-modernism', a philosophical and aesthetic movement which has influenced not only the law but art, architecture, cinema studies, politics, literary criticism, history, anthropology and philosophy.

The perspective of the course will be, by necessity, interdisciplinary and will address, initially, a variety of general issues which the term 'postmodernism' has raised: namely, the issue of language, of subjectivity, of the body, of the unconscious, of politics and of 'system' in general. Specific topics will include: deconstruction (Derrida), psycho-analysis (Lacan, Klein, Zizek), feminism (Irigaray, Cixous), post-Marxism (Althusser, Laclau and Mouffe), New Historicism (Foucault) and post-colonialism (Bhabha and Spivak).

Each of these broad theoretical topics and issues, however, will be connected with those practical questions posed by the law. So, for example, issues of deconstruction will be addressed in the context of judicial interpretation; psycho-analysis, in terms of the split subjectivity -- conscious and unconscious -- of the subject of law, the 'reasonable man' or the rights-bearer; New Historicism and/or feminism in terms of the body constructed by the legal regulation of sexuality (abortion, pornography, homosexuality, medico-legal discourse, etc).

Assessment: 100% continuous assessment

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## **LLAW6046 Privacy and data protection**

This course will consider the question of protection of privacy by the common law, bills of rights, the constitution, with particular reference to electronic surveillance and the conflict between privacy and free speech, including problems related to the Internet. Specific topics to be addressed will include: the concept of 'privacy' and the genesis and development of its political, philosophical and economic underpinnings; and existing common law and statutory protection: the equitable remedy for breach of confidence, defamation, copyright, the intentional infliction of emotional distress, the public interest, remedies; electronic surveillance, interception of communications, the Interception of Communications and Surveillance Ordinance; the protection of 'personal information': the Personal Data (Privacy) Ordinance, the data protection principles, data matching and PINS, access rights, transborder data flow; the Privacy Commissioner: powers, functions, exemptions, from the principles, the sectoral codes; the international dimension: UN Guidelines, Council of Europe Convention, and OECD Guidelines, EU directive, Articles 17 and 19 of the ICCPR, Article 14 of the BORO, Article 8 of the ECHR; and the Internet and the protection of personal information.

Assessment: 40% research assignment, 60% take home examination

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## **LLAW6047 PRC property law**

It is generally believed that secure property rights are the key to economic growth. Yet it is said that China has been the world's fastest growing major economy for the past 30 years without a well-functioning property system. This seeming contradiction has compelled leading scholars of different disciplines to reflect on the role of property rights in economic development.

Is the general belief valid? Is China really a counterexample? This course intends to answer both questions by investigating the evolution of the Chinese property system. It will cover four parts: evolution of property rights in Chinese constitution; evolution of the Chinese land administration laws; evolution of property rights in Chinese civil laws (i.e., from the 1986 Principles of Civil Law to the 2007 Property Law); and the relationship between property rights in action and property law on the books.

This course hopes to deepen students' understanding of the PRC property system, with a focus on how real world developments influence the property law, and vice versa. It will draw on cases and examples from the real world to help students understand the PRC property system.

This course will not only enable students to understand the complex system of the PRC property system, but also the factors that have driven its development. This course will build a solid basis for students who are interested in either practicing Chinese real estate law or doing related academic research.

Assessment: 70% written assessment, 30% class participation

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## **LLAW6048 PRC security and insolvency law**

This course will focus on both security and insolvency issues in the People's Republic of China,

with reference to both PRC foreign investment enterprises and state-owned enterprises and companies. The options available to creditors for protecting their interests under Chinese law will be a central feature of both parts of this course.

Aspects of security law to be covered include the five forms of security - guarantees, mortgages, pledges, liens and deposits, with an emphasis on mortgages and guarantees. Topics to be studied include : the concept of security, Chinese attitudes towards security, the selection of security providers and of security vehicles, real and personal security, types of business finance, creating security (investigation, negotiation and documentation), the approval process, the recording system, and remedies.

The insolvency portion of the course will focus on the insolvency of foreign investment enterprises and state-owned enterprises and companies. The PRC Bankruptcy Law and related legislation at both the national and local levels will be considered. Topics to be studied include insolvency principles, the economic and political ramifications resulting from the insolvency of state-owned enterprises and companies, an overview of the insolvency process, commencement of insolvency cases, property available for distribution to creditors, representatives of the estate, and liquidation procedures generally. Cross-border insolvency issues, especially in relation to co-operation with the Hong Kong SAR, will also be considered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 30% mid-term assignment, 70% research paper

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## **LLAW6049 Securities regulation I**

The overall aim of the course is to develop an understanding of the regulatory framework governing the securities markets in Hong Kong and how regulations affect securities activities and transactions undertaken by issuers, intermediaries and investors. An underlying theme of the course will be to understand why regulations put in place and to critically assess the effectiveness and appropriateness of the regulatory framework and specific regulations.

The course is structured in three conceptual parts. (1) Orientation: the nature of regulation and the products, actors and marketplaces with which the course will be concerned. (2) Framework: the core laws, regulations and regulators comprising the regulatory framework. (3) Application: how regulation interacts with the business of effecting transactions in the marketplace.

The course will begin with an examination of the key securities laws and regulations, in particular: the Securities and Futures Ordinance (SFO), the prospectus provisions of the Companies (Winding-up and Miscellaneous Provision) Ordinance, regulatory codes issued by the Securities and Futures Commission (SFC), and the Listing Rules. The objectives, principles and purposes of regulation will be introduced. The nature and functions of a stock market will be considered.

The function of key bodies undertaking regulatory functions, namely the SFC, the Hong Kong Monetary Authority, and The Stock Exchange of Hong Kong Limited, will be examined. How these bodies relate to each other in terms of their functionalities will be examined in light of incidents that have highlighted potential shortcomings in the regulatory system. The roles of the Market Misconduct Tribunal and the Securities and Futures Appeals Tribunal will also be

assessed.

The impact of regulation on corporate transactions and the general practices of the market and its intermediaries will be studied. As regards intermediaries, this will require an understanding of the application of regulatory codes issued by the SFC as well as subsidiary legislation to the SFO. As regards the marketplace, this will require an understanding of the functions of the stock market vis-à-vis listed issuers and investors as well as the role of sponsors. A portion of the course will be given over to studying the impact of regulatory requirements on the conduct of initial public offerings.

The course will conclude by bringing together the knowledge gained over the duration of the course to consider the benefits and drawbacks of regulation for the market and critically assess the impact and effectiveness of regulation. What are the shortfalls of regulation, and where is regulation heading?

Assessment: 25% group coursework, 65% take home examination, 10% class participation. Students are required to pass the exam to be eligible to pass the courses.

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### **LLAW6050 Taxation in the People's Republic of China**

This course provides a comprehensive study of the taxation system of the PRC. Particular attention is placed on cross-border taxation problems.

Specifically, emphasis is given to inbound and outbound investment and the principles of tax efficient structuring for investors from high tax jurisdictions, as well as low tax jurisdictions such as Hong Kong. The major PRC taxes to be studied include the foreign investment enterprises and foreign enterprises income tax law, the individual income tax law, the tax administration and collection law and various indirect taxes, particularly VAT, business tax and land value appreciation tax. The structure and use of the PRC double tax treaties are examined in depth.

An integral part of the course involves case studies of cross-border business activity in the PRC and Hong Kong, and if time permits, a typical OECD taxing jurisdiction.

Assessment: 100% continuous assessment

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### **LLAW6051 The law of restitution**

Topics to be covered in this course:

Introduction: fundamental concepts in the law of restitution.

Autonomous unjust enrichment: recovery of payments for mistakes; recovery of payments under duress or inequality of bargaining power; recovery of payments for failure of consideration; recovery of payments for *ultra vires* demands by public authorities; claims of restitution against third party recipients - tracing, knowing receipt; defences to claims in restitution.

Restitution for wrongs: restitutionary remedies for breach of common law obligations; restitutionary remedies for breach of equitable obligations.

Comparative insights: comparison between the laws of restitution in UK/HK and the PRC.

Assessment: 100% continuous assessment

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### **LLAW6052 Law of the sea**

The Law of the Sea is a cornerstone of public international law that is fraught with complexity from detailed treaties and elaborate custom that has been interpreted by numerous international courts and tribunals over a relatively long period of time. This course explores the key rules and principles of this legal regime primarily through a critical assessment of past efforts at dispute settlement, with the aim of developing sufficient problem-solving skills in this realm to successfully tackle future disputes as they arise. Topics to be addressed include: nationality of vessels and jurisdiction of the flag state; baselines and maritime boundaries; territorial seas, contiguous zones, straits, archipelagic waters, continental shelves and exclusive economic zones; the deep seabed; marine pollution; and living resources of the high seas.

Assessment: 100% continuous assessment

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### **LLAW6055 Law of international finance I**

Law of international finance I is an introductory postgraduate course dealing with transnational financial transaction formation and its relationship with financial innovation, market practice and financial regulation. The aim of the course is to foster an understanding from first principles of major capital market transactions, and their function in the modern financial system. This will include consideration of the parties involved and their motives, contract formation, why transactions succeed or how they may fail, applicable regulatory settings, and the legal documentation involved in structuring transactions and allocating risks. Four generic transactions will be covered using recent examples of applications: international syndicated loans, major currency bond issues and issuance programmes, asset-backed securities, and interest rate and currency swaps. Standard documentation and interdisciplinary materials will be used whenever relevant.

Prerequisite / Co-requisite: Non LLM(CFL) students will find it helpful to have a commercial law background or a strong professional or academic interest in contemporary finance.

Assessment: 95% take home examination, 5% mid-term group assignment

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### **LLAW6056 Law and development in the PRC**

China's three-decade economic growth accompanied by a weak legal system poses a challenge to the conventional wisdom that puts the rule of law as a precondition of economic development. This is the so-called "China problem" in the law and development field. What is the role of law in economic development? How to evaluate the Chinese economic development? Is it sustainable? This course addresses these questions.

The first part of this course will introduce the debate on the “China problem,” and review critically the assumptions and premises of both sides. Part II of this course will introduce general theories on law and development, in particular the roles of ideology, property rights and the state in economic development. Part III will examine law and development in China, with a focus on the evolution of contract and property laws in Chinese economic development. Part IV will look at law and development from a comparative perspective.

Reading materials will be selected not only from legal literature, but also economics, political science, sociology, and others.

Assessment: 40% class participation, 30% response papers, 30% final paper

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### **LLAW6057 International securities law**

International securities law is a topical course taught from both an academic and practitioner’s perspective, dealing with the law, practice and regulation of organised markets including stock exchanges, and the law and practice of financial derivatives and structured financial instruments.

It is intended for postgraduate students with a commercial law background or requisite professional insight, and who have completed Law of International Finance 1 or an appropriate equivalent.

The course aims to develop a usable understanding of law, practice and regulation of exchanges and financial derivatives transactions. This will include consideration of the parties involved and their motives, contract formation, the documentation involved in structuring transactions, allocating and mitigating risks, the functioning and legal foundations of organised exchanges, and the impact of established and post-crisis conflicts of law and re-regulation on transaction design and execution.

Assessment: 100% three take home examinations issued at intervals over the semester

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### **LLAW6058 Armed conflicts, humanitarian law and human rights**

This course is designed to provide candidates with a comprehensive introduction to the regulation of international and non-international armed conflicts within international law. Its emphasis shall be on the historical evolution of and assumptions behind this law, together with an assessment of the practical challenges that confront the application, implementation, and enforcement of this law. Set within an interdisciplinary context of moral philosophy as well as military strategy, we shall cover a host of topics that emerge once the scope (or provenance) of the Geneva Conventions and Additional Protocols has been defined. As the themes of the syllabus take shape, we shall endeavor to relate how the ‘humanitarian’ dimensions of the law of armed conflict have come by this nomenclature, and how they relate to other areas of international law (specifically human rights and international criminal law).

Assessment: 100% In-hall examination

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### **LLAW6059 Criminal justice and human rights**

This course will examine the international standards relating to the different dimensions of the criminal justice process and their implementation at the national level through constitutional, legislative, judicial and other means. Topics covered are likely to include pre-trial and administrative detention, procedural and substantive guarantees at trial (e.g., the right to be presumed innocent and the right to a fair hearing), sentencing, and the rights of prisoners.

Assessment: 100% continuous assessment

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### **LLAW6060 Current issues in human rights**

This course will explore in depth a limited number of issues which are of contemporary interest in the field of international human rights law. In 2006-2007, the topics will include the protection of minority rights, self-determination, indigenous rights, and in-depth consideration of the moral and legal scope of so-called “humanitarian” intervention. Prerequisite: completion of either LLAW6068 (Human rights: history, theory and politics) or LLAW6072 (International and regional protection of human rights).

Assessment: 100% continuous assessment

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### **LLAW6061 Development and human rights**

This course will consider the concept of the right to development, the recognition and scope of this third generation of rights, the principles governing international trade and those governing respect for human rights, trade sanction and conditionalities in aids, particularly in light of global standards set by international bodies such as World Bank and the GATT/World Trade Organization, standards developed by other bodies such as the International Labour Organization, bilateral arrangements such as the most favoured nations clause and the moral, political and economic dimensions of such arrangement and their implications for human rights protection, the control on freedom of movement and brain drain, and autonomy on the use and disposition of natural resources.

Assessment: 100% continuous assessment

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### **LLAW6062 Economic, social and cultural rights**

This course will begin with a discussion of the theoretical and historical development of economic, social and cultural rights (“ESC rights”) under the international human rights system. It will then examine the sources of ESC rights, the obligations of states and the implementation of ESC rights at both international and domestic levels. Among the substantive contents of ESC rights, the course will study the right to food, the right to water, the right to the highest attainable standard of health, the right to social welfare, and the right to housing. The course will also look at approaches to monitoring and advocacy strategies for the realization of ESC rights.

Assessment: 70% research paper, 20% case comment, 10% class participation



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### **LLAW6063 Equality and non-discrimination**

This course will consider theories of equality, international standards on equality and non-discrimination, and their implementation in national laws and practice. The course will examine (with an emphasis on inequality issues of relevance to Asia) different forms of discrimination and inequality, which may include discrimination on the basis of race, class, ethnicity, sex, disability and other grounds.

Assessment: 30% essay, 70% take home examination

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### **LLAW6064 Ethnicity, human rights and democracy**

Most of the world's conflicts since the end of the Second World War involve ethnic groups against their own country's government, often claiming oppression or violation of their rights by these same authorities. The course examines the causes of this rise of ethnicity, and how majoritarian and liberal democracies – and other forms of government – at times seem to clash with international human rights standards in relation to these ethnic groups. It seems recent developments in the understanding and application of human rights and international law respond to this clash: the rise of rights of indigenous peoples, new modes of expression of self-determination, developments in the rights of minorities, various forms of autonomy to respond to collective claims, and the adaptation of human rights in order to better reflect and protect individuals belonging to ethnic groups facing a non-neutral state.

Assessment: 60% research paper, 30% test, 10% class attendance

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### **LLAW6065 Freedom of speech and the press**

This course will examine the theoretical justifications for freedom of expression and freedom of the press, the role of the press in modern democracy, the scope of expression, the problem of inflammatory speech and hostile audience, prior restraint, the regulation of free speech by way of the common law of defamation, restriction by official secrets law, access to information and personal privacy, free speech and the judicial process, obscenity, television and broadcasting, and disclosure of sources of information.

Assessment: 100% continuous assessment

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### **LLAW6066 Gender issues in human rights**

This course will address the role that gender has played in the conceptualisation, interpretation and implementation of international human rights standards. The topics considered will include feminist critiques of the claimed and rocentrism of human rights guarantees, the guarantees against sex discrimination under international and regional systems, the Convention on the Elimination of All Forms of Discrimination against Women, and the extent to which recent developments in human rights law and practice address the problem of discrimination against women. Specific topics addressed may include violence against women (e.g. issues

such as female infanticide, sexual harassment, marital rape, and dowry deaths), the enjoyment by women of economic, social and cultural rights, and the relationships among culture, tradition, religion and women's equality.

Assessment: 100% continuous assessment

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### **LLAW6067 Globalisation and human rights**

The course explores the relationship between rights and globalisation. Globalisation is a complex process whereby ideas, technologies, people, and capital move from one place to another, resulting in the greater integration of the world. The spread of the idea of human rights itself, particularly under the aegis of the United Nations, is itself a consequence of globalisation. At the same time, there are other trends in globalisation which threaten the enjoyment of rights: the rise of corporate power, the weakening of state authority, the dominance of the market as the matrix for social, political and economic power, and the downgrading of social rights. Globalisation enables us to explore the connections between political and economic rights, the limitations of rights as applied only against state authorities, and the debate on universalism versus relativism as different cultures are juxtaposed with the movements of peoples and cultures.

Assessment: 100% continuous assessment

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### **LLAW6068 Human rights: history, theory and politics**

This course will consider the evolution of concepts of human rights from historical, political, theoretical and philosophical perspectives. The Western traditions of human rights and the challenges to them will be examined, especially following the Universal Declaration of Human Rights. The issue of universal standards and cultural relativism and the political economy of human rights will also be examined, including the challenge to the dominant Western paradigms by the proponents of Asian values in interpreting and implementing human rights. There will be stress on the exploration of the philosophical roots of Western concepts of human rights and whether these can claim universal validity alongside other philosophical systems such as Confucianism, Islamic thought or Buddhism. Attention will also be paid to feminist and postmodern critique of human rights.

Theoretical and practical questions relating to violations of human rights by non-State actors will also be considered, as will the impact of globalisation on the enjoyment of human rights. This aspect of the course will stress political style analysis of the contexts in which human rights come to be violated and the limits as well as the strengths of the mechanisms which exist nationally and internationally to defend rights in a world system still overwhelmingly dominated by states. The struggle for democracy in the Middle East will receive attention.

Assessment: 90% Written assignment and 10% class participation, through introducing texts for discussion.

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### **LLAW6069 Human rights and governance**

This course will examine the international and regional guarantees of the right to self-determination, its relationship with the democratic process and other democratic rights, sovereignty and self-determination, and the rights of minorities. The course may include particular emphasis on the relationship between human rights and the process of democratisation or transition from authoritarian regimes to democratic governments.

Assessment: 100% take home essay

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### **LLAW6070 Human rights in the People's Republic of China**

This course will examine the international and domestic dimensions of the protection of human rights in the People's Republic of China. It will examine the applicability of international human rights standards to the PRC, the stance of the PRC in relation to international national mechanisms for the protection of human rights, and the place of international standards in domestic law. The course will consider the theoretical debates about the origin and contingency of human rights standards, questions of priorities in human rights, and the issue of rights in Chinese cultural contexts. It will also examine the extent of human rights protections available under the Chinese constitution and other laws, and will focus on selected issues, which may include the criminal justice system, freedom of expression, freedom of association, freedom of religion, labour rights, gender discrimination, and minorities/self-determination. The course will also examine the social and political forces that may contribute to the improvement of human rights in China.

Assessment: 100% research paper

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### **LLAW6071 Indigenous peoples and human rights**

This course will examine the international law status of indigenous peoples and population and the relationship between the rights of indigenous peoples and the rights of minorities. The work of the International Labour Organisation and the United Nations in the field will be considered. Taking case studies from the Asia-Pacific region as a particular focus, issues addressed may include the definition and legal status of indigenous peoples, their rights to land and resources, their linguistic and cultural rights, and their rights to self-determination, autonomy and self-government.

Assessment: 100% continuous assessment

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### **LLAW6072 International and regional protection of human rights**

This course will examine the evolution of international standards of human rights within the United Nations system and the mechanisms established to promote their enjoyment. The topics to be covered will include the development and content of the International Bill of Rights, the major United Nations human rights treaties and the work of the United Nations treaty bodies. The Charter-based mechanisms of the United Nations will be examined, including the Commission on Human Rights and its thematic and country-specific procedures. Particular attention will be given to the relevance of these mechanisms to the Asian-Pacific region.

The European, Inter-American and African regional systems for the protection of human rights will also be considered, in particular the work of their supervisory organs. The possibilities for an Asian regional or sub-regional human rights machinery for the protection of human rights will also be examined.

Assessment: 20% in-class presentation and class participation, 80% final assignment

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### **LLAW6073 International protection of refugees and displaced persons**

This course will examine the various international attempts to address the problem of the forced movements of people due to persecution, armed conflict or natural disaster. It covers international efforts in protecting aliens and refugees, the definitions of refugees in international and regional instruments, the principle of non-refoulement, the 1951 Convention on Refugees, the work of the United Nations High Commissioner for Refugees, and national responses to the flow of refugees.

Assessment: 70% take home examination, 30% essay

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### **LLAW6074 Labour rights and human rights**

This course will focus on the International Labour Organisation and its various agreements. Topics to be covered include historical development of the ILO, the institutional framework and the complaint mechanism, collective bargaining, freedom of association and workers' and employers' organisations, closed shop system, right to strike and other industrial action, restrictions on working conditions, child labour and wage negotiation.

Assessment: 100% continuous assessment

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### **LLAW6075 National protection of human rights**

The Seminar on National Protection of Human Rights offers an opportunity to explore human rights in its national social and institutional contexts. Students will explore the important themes of national protection of human rights with an emphasis on Asia. Particular attention will be paid to domestic constitutional questions such as democracy, human rights and the rule of law. Asia is a region that houses nearly two-thirds of the world's population and includes a wide range of cultures and developmental contexts. We confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation at the local level. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency on a regional level with mixed success. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and local institutional practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy,

and development of civil society. Asian discussions of these concerns have intimately connected issues of human rights and development. The seminar will explore these rich Asian themes and efforts.

Assessment: 20% presentation of research paper; 10% class participation (including two response papers and discussion), 70% research paper

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### **LLAW6076 Seminar in human rights research, sources and methodology**

This course will provide an introduction to the methodology of, and sources for, human rights research. The seminar will examine the various purposes of human rights research and sources and research strategies appropriate for different purposes. The topics covered will include international sources, comparative national material, non-governmental organisation material, and will include both legal sources and resources from other disciplines. The use of electronic resources and search strategies will also form part of the seminar.

The course seeks to provide an overview of approaches to research in the field of law – and human rights law in particular - and to develop your skills in combining those approaches. The course will introduce students to techniques for carrying out traditional research as well as electronic research and encourage students to consider, assess and evaluate the usefulness of the different sources and techniques available. The course will familiarise students with the major sources of international (including regional) human rights law as well as familiarise students with the documentation of the United Nations and regional human rights systems. Finally, the course will introduce students to the standard resources and techniques for conducting human rights research from an international and comparative case law perspective.

The course will provide students with preliminary assistance in writing research papers, in particular by working with students on the formalities of writing and citing sources, avoiding plagiarism, formulating research questions and structuring research papers.

Assessment: 90% written assignments, 10% in-class exercises

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### **LLAW6077 The rights of the child in international and domestic law**

This course will examine the concept of children's rights within the Asia-Pacific region as a general theoretical issue, as well as consider selected issues of domestic law and practice in the light of the minimum standards mandated by international human rights law. The second part of the course will seek to apply these theoretical models to the concrete legal situations in the region. It will consider international instruments such as the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of Children, and the Hague Conventions on Child Abduction and Inter-country Adoption, as well as other regional or bilateral arrangements.

Assessment: 100% continuous assessment

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### **LLAW6082 Corporate governance and shareholder remedies**

This course aims to investigate competing approaches to the concept of corporate governance explored in comparative literature and to canvass major debates on corporate governance reform among academic, business, and policy circles in selected jurisdictions, primarily Hong Kong and mainland China. The course will examine important corporate governance institutions in select jurisdictions, particularly the legal standards and arrangements for shareholder protection and remedies, as well as regulatory initiatives to promote good corporate governance practices and addressing corporate governance failures. Useful examples from overseas jurisdictions, such as the United States and United Kingdom, will be drawn on to illustrate international experience in corporate governance reform.

Assessment: 100% research paper, subject to prior approval of research proposal

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#### **LLAW6084 Cross-border insolvency law**

The aim of the course is for students to consider how best to resolve cross-border insolvency issues. The course will begin with an analysis of the transnational aspects of Hong Kong and United States law and, to a lesser extent, of the law of the United Kingdom, Australia, and perhaps other jurisdictions. Also discussed will be some recent proposals to foster cross-border co-operation in insolvency including proposals by the International bar Association and UNCITRAL, as well as the European Union Insolvency Convention on Insolvency Proceedings. Much time will be spent analysing the choice of law questions that arise in transnational insolvencies.

Assessment: 100% continuous assessment

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#### **LLAW6086 Current issues in corporate law**

Topics likely to be covered include theories of regulation, concept of control, acquisition of shares including takeover offers, disclosure in takeovers, purchase of own shares and financial assistance in takeover, compulsory acquisition, defending against unwanted takeovers, use of litigation in takeovers, role of SFC and the takeover panel, judicial review of regulator's powers, the need for insider dealing law, concept of insider dealing, role of Insider dealing Tribunal.

Assessment: 100% continuous assessment

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#### **LLAW6087 Current issues in insolvency law**

Insolvency cases in Hong Kong are at an all-time high and the entire insolvency legal regime - including the bankruptcy of individuals and the liquidation and rescue of companies - is in transition. This course will cover both personal and corporate insolvency and will address the ongoing initiatives to reform Hong Kong law.

Detailed knowledge of insolvency law is not a prerequisite. The *Hong Kong Corporate and Personal Insolvency Manuals* will be assigned and will provide students with both an overview of insolvency law in Hong Kong and a detailed analysis of practical considerations. Discussions in class will consider the adequacy of existing insolvency laws and procedures in

Hong Kong and evaluate the strengths and weaknesses of the law reform amendments and proposals. Comparisons will be made with insolvency law developments in other jurisdictions.

There will be four primary areas covered: (1) personal insolvency law (both bankruptcy and voluntary arrangements); (2) corporate liquidation; (3) corporate rescue (including out-of-court rescues and the proposed Provisional Supervision procedures); and (4) cross-border insolvency.

Assessment: 100% research paper

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### **LLAW6088 Derivatives: law and regulation**

Covers the historical and market developments of swaps and derivatives, market innovations as to financial, capital market and commodities based derivatives, use of derivatives in emerging economies, regulatory and supervisory concerns, and selective case studies of regulatory and litigation issues as to derivative arrangements.

Assessment: 100% continuous assessment

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### **LLAW6093 Regulation of financial markets**

Designed for students considering or planning to work in the financial sector, this is an overview perspective course, for LLM (and JD) students without financial background. Specifically, the course will examine, from legal and policy perspectives, the fundamentals respecting regulation of the primary financial intermediaries and markets: i.e., money and banking, investment banking, and asset management and insurance. Emphasis will be on the on-going phenomenon of globalisation and interdependence/interconnection of financial markets and intermediaries, and the need for economies to develop viable and robust financial markets, with a particular focus on the current global financial crisis. Use of international, comparative (especially PRC, US and EU) and interdisciplinary materials will be made.

Assessment: 90% take home examination, 10% class participation

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### **LLAW6094 Law of international finance II**

Law of international finance II is a perspective course for students who have completed Law of international finance I or an appropriate equivalent. The focus is with deal formation, regulatory reforms and market practice involving non-traditional intermediation, or "shadow banking".

The course aims to develop a usable understanding of complex financial transactions and structured finance. This includes consideration of the parties involved and their motives, contract formation, why transactions succeed or fail, the documentation involved in structuring transactions and allocating risks, and the impact of regulation on transaction design and the interplay between the regulated and shadow financial systems.

Topics will include credit derivatives, synthetic transactions, the mis-selling of complex

instruments, the laws of organised exchanges, and non-recourse infrastructural and object finance. The course seeks to generate an awareness of the roots and contemporary features of complex transactions, how they contributed to the 2007-09 financial crisis, and place the elements of recent deals in a continuing legal and commercial context to apply to situations where elements of one transaction type are combined or embedded with others.

Prerequisites / Co-requisites:

Law of international finance I, an academic equivalent, or substantive and demonstrable professional experience.

Assessment: 100% Three take-home examinations issued at intervals over the semester

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### **LLAW6096 International tax and tax planning**

This course:

1. highlights and explains the major concepts of international taxation and tax planning by focusing upon the taxation implications arising from cross-border business transactions (and, to a lesser extent, employment), as well as suggests appropriate structures for implementing those transactions.
2. examines and contrasts the ways in which selected jurisdictions deal with the problems of taxing cross-border activities, with a particular focus upon important concepts such as jurisdiction to tax, controlled foreign companies legislation, foreign tax credit (and exemption) regimes, transfer pricing, withholding taxes, taxation compliance and anti-avoidance rules, and particular attention to the role, application, and interpretation of double taxation agreements (DTAs).
3. examines, in particular, specific and general anti-avoidance rules in (a) domestic legislation and (b) DTAs and, generally, the role of the courts in this area, anti-avoidance doctrine and tax ethics in relation to tax planning.
4. with regard to 2. and 3. above, examines in detail the taxation systems of several jurisdictions (specifically, Singapore, Hong Kong and the PRC (Mainland) and, for comparative purposes, Japan and the United States) by considering the taxation implications of outbound and inbound investments and appropriate structuring for (a) residents of those jurisdictions and (b) non-residents who carry out business operations (or who perform employment-related services) in those jurisdictions.
5. studies topical issues of international tax policy such as jurisdiction to tax, taxation of internet transactions, transfer pricing, tax administration, recent changes to the OECD Model Tax Convention and the implications for tax policy and practice arising from the OECD's 'BEPS' (base erosion and profit shifting) project.

Assessment: 50% take home examination, 40% group presentation (including written-up report), 10% class participation

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### **LLAW6097 Pension and investment funds in Hong Kong and the PRC**

This course is a comparative study of (a) the private law rights and obligations in and (b) the regulatory regime of pension funds and investment funds in Hong Kong and in the PRC. In relation to (a), emphasis will be placed on the different legal structures used in the two



jurisdictions to operate pension and investment funds, and the differences in the extent of the rights and duties of the parties arising thereunder. In relation to (b), emphasis will be placed on a few recent legislative developments in both jurisdictions, such as the new legislative framework on mandatory provident funds in Hong Kong, and the provisional regulation on investment funds in the PRC. Knowledge of PRC law is helpful, but not a pre-requisite to this course.

Assessment: 100% continuous assessment

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### **LLAW6098 Project finance**

The course reviews the techniques and contract structures for international project finance including selection of project vehicles, risk assessment and management, concession agreements, project contracts such as purchase, supply and take or pay and forward agreements. The role of the project participants and the creation of legal obligations through performance bonds and guarantees, indemnities, counter-indemnities, and letters of credit as well as their common features and problems encountered in use are discussed. Financial agreements including syndication generally and direct and indirect participation are examined. The place of project security and insurance are introduced as is the topic of subordination. Final topics address current issues in privatisation, the provision of infrastructure in Asia and their relationships to development.

Assessment: 60% a written open-book final examination, 30% an assigned and agreed research paper, 10% class participation

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### **LLAW6099 International commercial arbitration**

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations, revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

Students will be expected to have grasped an understanding of the core features of international commercial arbitration as a distinct discipline and to have developed a sense of how to approach technical legal problems that can arise in this field. They should also know their way

around the UNCITRAL Model Law and 1958 New York Convention, and be able to apply that knowledge to relevant factual scenarios.

Assessment: 100% take home examination

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### **LLAW6101 Competition, mergers and acquisitions**

This course covers the merger review aspect of competition law from a global perspective. The course is divided into two sessions. The first session focuses on the merger review practices of the US, with a particular focus on the case law and agency practices regarding the review of mergers. The second session will introduce students to basic principles of merger review under EU law. Emphasis will be placed on both the institutional framework and substantive review of mergers under EU law.

Assessment: 100% 2 take home examinations

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### **LLAW6102 Legal aspects of white collar crime**

The course applies international and comparative perspectives to the problem of white collar crime in the HKSAR. The topics covered include defining ‘white collar crime’, money laundering, terrorist financing, forfeiture/confiscation of crime tainted property, corporate criminal liability, punishing the corporation, investigating and prosecuting white collar crime, and possibly others.

Assessment: 100% continuous assessment

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### **LLAW6106 Advanced issues in information technology law**

This course examines the legal and policy issues relating to information technology (IT) from a comparative, global perspective. It covers wide range of issues involving how national governments regulate the technology of internet and how private citizens’ rights relating to internet are protected. Issues to be canvassed include privacy and personal data, internet jurisdiction, regulation of internet marketing, issues in electronic transactions, internet governance, domain name business models and disputes intellectual property challenges for new business models, legal issues raised by cloud computing, as well as net neutrality and telecom regulation.

Assessment: 25% class presentation, 75% final paper

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### **LLAW6107 Insurance law**

The course covers the operation and regulation of the insurance market; the definition, importance and reform of the concepts of “Insurable Interest” and “Utmost Good Faith”; the specific terms of insurance contracts; how losses and claims under insurance contracts are dealt with; the rights of insurers, including subrogation and contribution; the rights and duties of insurance intermediaries; and the nature of property insurance, marine insurance, reinsurance

and liability insurance.

Pre-requisites : Law of contract

Assessment: 100% take home examination

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### **LLAW6108 The child and the law**

Special attention to be given to the law relating to the child by examining the increasing importance of the child in family law. Evaluation of law governing parent and child relationship; the concept of parental rights and duties; the emergence of children's rights; the relationship between the child and the state; child protection under municipal and international law.

Assessment: 100% continuous assessment

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### **LLAW6109 Public international law**

The course is intended as a general introduction, also for non-law students. Great stress is placed on the nature of international law technique and method. For this purpose the course explains at length the concepts of sovereignty and statehood. It considers how states create international law through treaty and customary law. These techniques are explained with reference to cases. The course also introduces certain concrete difficulties facing the international community, such as the “War against Terrorism”, the South China Sea disputes, the Middle East conflict, nuclear proliferation etc. These are outlined in an introductory way.

Other standard topics of international law are covered. These will include the relationship between international and municipal law; the subjects of international law; state recognition; state jurisdiction; the acquisition and loss of territory; state responsibility; state succession; treaties and other international legal agreements; the pacific settlement of disputes; the use of force; international institutions; human rights.

Special reference will be made throughout to considerations which are particularly relevant in the Hong Kong and Southeast Asian contexts.

Assessment: 100% written assignment

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### **LLAW6110 Law and regulation of banking and insurance in the People’s Republic of China**

This course involves an examination of the legal framework governing banking and insurance. The course begins with a discussion of the central bank, the People’s Bank of China, regarding its role, activities, and regulatory power. The course will cover other main financial regulators such as CBRC, CSRC and CIRC. Entry into the business of banking and regulation of the activities of banking business are examined. In addition to the regulatory regime, the law of negotiable instruments and the international transaction aspects of banking business are also treated. The course will discuss such matters as the types of security interests, principal terms

of most common forms of loan facilities, basic structure of syndicated loan and international bond issues. The course will also address the causes, systemic risks and potential regulatory instruments in relation to China's booming shadow banking sector.

The course then moves into the regulatory regime governing the insurance industry. Restrictions of entry and activities of insurance companies are examined. Prudential management and investment limitations are also dealt with. Regulatory supervision of insurance companies and regulation of insurance agents and brokers are analysed. Other topics of insurance law include : insurable interest, subrogation, the insurance contract, third party claimants, and bad faith claims.

Prerequisite: Ideally, the students should have some basic knowledge of the Chinese legal system.

Assessment: 100% examination

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### **LLAW6111 E-business law**

More and more companies and organisations are embracing information technology to add value to their business and to remain competitive. In the e-business environment, on one hand, existing law is being applied in a new setting. On the other hand, development of law is needed in order to address specific issues that online business creates.

The course looks at the main legal issues generated by the developments in e-business, their possible solutions and how to strategize and create value in the e-business context accordingly.

Topics to be covered include the international and national framework for e-business, branding and trade marks, contractual issues of online trading, online security issues, privacy and data protection, liabilities of online service providers, online tort issues and jurisdictional issues.

Prior knowledge of the subject matter is not required.

Assessment: 40% written assignment(s) and/or case preparation note(s), 60% research paper

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### **LLAW6112 Criminal law and procedure in the People's Republic of China**

This course will examine the structure of criminal liabilities under Chinese criminal law and the stages of criminal process on the mainland of the People's Republic of China (PRC). It will consider : (1) the organizations of criminal law in China and their relationship; (2) the changing rules of criminal liabilities and criminal process and their political and social context; and (3) the operations of the criminal law and the culture of criminal justice system in China. Major topics of the course include: definition of crime in the PRC, structure and principles of PRC criminal law, commercial crimes in the market economy, powers in criminal investigation, the judiciary and criminal trial, rules of evidence, and rights of the accused.

Assessment: 100% continuous assessment

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### **LLAW6113 Constitutional and administrative law in the People's Republic of China**

This course consists of two parts. The first part of the course examines the following topics : (1) China's constitutional development and reform, (2) the state system, (3) the status of the Chinese Communist Party, (4) citizen's rights and obligations and, (5) the social and economic system. Through comparative studies, students are expected to understand the major differences between the concepts under the Chinese Constitution and the features of western liberal constitutionalism and the difficulties, as well as perspectives, for China's constitutional reform.

The second part of the course focuses on China's administrative law system. Topics on this part include: (1) historical foundation and development of the administrative system in China; (2) comparative studies of Chinese and western administrative law system; (3) administrative review including administrative reconsideration, punishment, and supervision; (4) judicial review or administrative litigation; and (5) state compensation. In contrast to the first part, this part is mainly conducted through case study format. Students are expected to analyse the issues in the cases by applying relevant laws and regulations.

Assessment: 100% continuous assessment

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### **LLAW6114 Cross-border legal relations between the Mainland and Hong Kong (in Putonghua)**

The course will focus on the constitutional, criminal and civil aspects of cross-border legal relations, which will include:

The status of PRC constitution and the Basic Law and the issue of congressional supremacy,  
Criminal jurisdictions,  
Repatriation of fugitives and sentenced persons and mutual legal assistance in other criminal matters,  
Mutual recognition and enforcement of arbitral awards and judgments,  
Procedures of cross-border services and evidence taking, and  
Cross-border insolvency and family law matters.  
The course will be taught in both Putonghua and English. The medium of coursework and examination will be in Chinese.

Assessment: 100% research paper

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### **LLAW6115 Advanced seminar on Chinese law**

This seminar will focus on selected topics including: the role of the judiciary, the rule of law, law and development, enforcement of the law, economic reform and commercial law, WTO and China, globalization and local culture.

Assessment: 100% continuous assessment

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### **LLAW6117 Cybercrime**

‘Cybercrime’ refers to computer-mediated activities which are either criminal or regarded as illicit and which can be conducted through global electronic networks. It encompasses cybercrimes against the person (e.g. cyber-stalking, cyber-pornography), cybercrimes against property (e.g. hacking, viruses, causing damage to data, cyber-fraud), and cyber-terrorism. The computer-age has also provided organised crime with more sophisticated and potentially secure techniques for supporting and developing networks for a range of criminal activities, including drugs trafficking, money laundering, illegal arms trafficking, and smuggling.

Cybercrime poses new challenges for criminal justice, criminal law, and law enforcement. This course will examine the nature of and problems created by cybercrime, along with some of the legal and policy challenges arising in relation to the development of national and international law enforcement and regulatory responses to cybercrime.

Assessment: 60% research paper, 40% assigned research, review and presentation

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### **LLAW6119 Human rights and cyberspace**

The exponential growth of the internet and world-wide web provides great opportunities for and poses significant challenges to enjoyment of human rights in many areas. This course will examine a number of areas in which the Internet revolution has provided new tools and opportunities for promoting the enjoyment of human rights, as well as for enabling violations of human rights:

- The use of the Internet for building human rights networks for the dissemination of information and the co-ordination of action at national and international levels.
- Issues of access to technology, in particular the opportunities for persons with certain disabilities provided by IT developments, the problems of accessibility and the legal obligations of e-service providers to ensure that their services are accessible to persons with disabilities.
- The use of the Internet for the dissemination of racist material and other forms of offensive material.
- Cyberstalking and harassment through the Internet.
- The global dimensions of the Internet : the difference between rich and poor, the issue of language.
- Gender and the Internet.
- Freedom of expression and the Internet.
- Jurisdictional and substantive law problems in relation to human rights and the Internet.
- Use of the Internet by non-governmental organisations for building international networks and co-ordinating activism on human rights issues.

Assessment: 20% participation, 80% research paper

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### **LLAW6120 Intellectual property and information technology**

Given the ubiquity of information technology (IT) today, intellectual property (IP) issues related to IT have never been more challenging. With the predominance of frequent headlines

about IT-related IP matters, IP and IT is, indisputably, one of the topics that has aroused great interest and attention today.

The course looks at the main IP issues related to IT, how IP can be used to protect, manage and create value from IT innovations, products and creations, and how the dynamic nature of IT would never leave IP law remain static.

Prior IP or IT knowledge is not required.

Assessment: 10% quiz, 30% exam, 60% research paper

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### **LLAW6123 Law, the individual and the community : a cross-cultural dialogue**

This course is a "global classroom" course centered on dialogue amongst parallel classes at universities in a number of countries (including Canada, Singapore, Malaysia, Finland and the USA) by means primarily of Internet-based communications technology. The course deals with competing ideas about the appropriate relationship between individual and community and the role of law in regulating that relationship. A special concern is to explore the extent to which human rights are an indispensable and universally-desirable aspect of such legal regulation. Are there reasons to believe that either the idea of human rights or the content attributed to some human rights cannot be justified as appropriate for all societies in all contexts? In order to provide a context for the dialogue amongst the students in the different universities, selected cases and scenarios from international human rights law (as well as some comparative constitutional case law) provide the concrete focus for exploring the broader theme. The issues to be examined are likely to include (though will not necessarily be restricted to) the death penalty, preventive detention, sexuality, corporal punishment, parent and child relationship, and freedom of expression.

The course will involve regular meetings of the class in Hong Kong, together with participation by students in discussions with their counterparts in other countries for 8 weeks during the semester. This discussion will be based around the common themes and reading being considered simultaneously by each of the classes during that period. The main form of communication technology used to link the students is an Internet website discussion group (a series of "conferences"), hosted by the Bora Laskin Law Library at the University of Toronto, with a back-up site at the National University of Singapore. Students will be required to contribute to the conferences on a weekly basis as part of the course. The co-instructors at the different institutions will moderate general conferences involving all students from all the participating universities.

[Note: This course was originally conceptualised and implemented by Professor Craig Scott of the University of Toronto and Professor Kevin Tan, of the National of University of Singapore. The course description above is based largely on their course description and appears with their permission.]

Assessment: 100% continuous assessment

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### **LLAW6124 Communications law**

This course examines how the telecommunication and broadcasting industries are regulated in Hong Kong, and introduces the main features and problems of the relating legislation and

regulation.

Topics may include:

- TV and radio licensing
- Foreign ownership control
- Cross media ownership control
- Content regulation
- Competition regulation in broadcasting sector
- Telecommunications licensing
- Interconnection
- Competition regulation and consumer protection in telecommunications sector
- Convergence
- Interception and surveillance

Assessment: 20% group project, 70% research paper, 10% class participation

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### **LLAW6127 Current issues in financial law**

The course will cover current and controversial topics in financial, banking and securities law, and aspects of reforms to financial regulation, especially those dealing with product and business conduct. It will examine these and other issues according to events and developments at the time of the course, at both local and international levels. The course will use a seminar format rather than formal lectures, to encourage discussion and make the focus of topics covered relevant to participants' interests.

Among the issues to be covered are shadow banking, complex financial instruments & mis-selling, post-crisis investor protection, sovereign debt litigation & flawed transaction documentation, misconduct & economic crime, stock exchange governance & conflicts and the governance of sovereign wealth funds.

Assessment: 80% take home examination; 20% class participation

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### **LLAW6128 International trade law I**

This course will provide students with a practical insight into a number of areas of international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

The course is designed to make students research and use case law, ordinances and international conventions. It is taught in a practical way and requires students to think of commercial solutions to problems.

The course covers the following areas:

- International sale of goods – the contracts and terms found in sale contracts involving an international element
- Marine Insurance – what is covered by insurance and the duties on an insured



- Letters of Credit – the method of financing the sale contract and the obligations on the banks and parties
- Carriage of goods by sea – who has a right to sue the sea carrier of the goods, the obligations on the sea carrier of the goods and whether the sea carrier can sue anyone for their losses
- Jurisdiction and choice of law – in which country a claim can be brought and which law will be applied to the claim
- Litigation – the most useful procedures used in commercial litigation such as security for costs, freezing injunctions, orders for inspection, arrest of ships
- Arbitration – the procedures that apply to an arbitration of a claim

Prerequisites / Co-requisites: Law of contract I and II and Law of tort I and II

Assessment: 100% Take home assessment

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### **LLAW6130 Law, justice and ideology**

Social theory and the sociology of law: Pound, Erlich, Durkheim, Weber; law and social change.

Law as ideology: law and power, Marxist theories of law and state, critical legal studies.

Theories of justice: utilitarianism, the economic analysis of law, Rawls, Nozick, Hayek.

Assessment: 100% continuous assessment

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### **LLAW6132 International and comparative intellectual property law**

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, industrial designs, unfair competition, trade secrets, geographic indications, and other forms of intellectual property (IP). The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP protection for global competition between developed and developing countries in an integrated world market.

Prerequisites : Have taken (or concurrently taking) other IP laws.

Assessment: 85% take-home examination, 15% class participation

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### **LLAW6133 International economic law**

The recent dramatic transformation of the international economic legal order is generally attributed to “globalization”, on the one hand, and liberalization, harmonization and unification

of national policies and laws that affect trade, investment, and financial and commercial transactions across national borders, on the other hand. Concerns arise as to the coherence and compatibility of these processes and efforts with respect to national and global economic development, and overall welfare. This is the domain of international economic law; the law and policy of relations between national governments concerning the regulation of economic transactions that have cross-border effects. The course will broadly introduce those areas of international law and institutions that have shaped, or are the resultant of, the recent transformation of the international economic legal order, under three general themes: international trade, investment and competition law; international financial and monetary law; international commercial transactions. It will cover the relevant activities of international organizations such as the WTO, ASEAN, APEC, NAFTA, EU and ICSID. In addition to trade, investment and competition, the subject matter will include topics dealing with banking, insurance and securities. The role of institutions such as central banks through the BIS and the Basle Committee in the development of regulatory frameworks will be examined. The activities of two Bretton Woods international institutions, the World Bank and IMF, as well as the IOSCO will be studied. Efforts to unify or harmonise laws that affect international commercial transactions by international institutions such as the ICC, UNCITRAL, UNIDROIT, Hague Conference in Private International Law and OECD will also be examined.

Assessment: 100% take home examination

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### **LLAW6134 Selected issues on WTO and China**

This course is an advanced seminar on the interactions between WTO law and national measures in selected areas such as customs administration; public health and safety, consumer protection, industrial and competition policies; agricultural, textiles and clothing markets, financial services markets, telecommunications, and intellectual property rights. Each topic will include a discussion of the interactions between WTO law and national measures with respect to China. This will include examination of issues related to State trading, economies in transition and differential treatment to accommodate the special needs of developing economies. The course will begin with a review of the general principles of the WTO agreements, and a discussion of the sources of WTO law concerning China's commitments and obligations. Topics of study will include valuation for customs purposes, pre-shipment inspection, rules of origin and import licensing procedures. The WTO agreements on sanitary and phytosanitary measures and technical barriers to trade will also be considered, as will the treatment of anti-dumping measures, subsidies and countervailing duties, and government procurement. Policies related to trade in agricultural products, textiles and clothing will be addressed in the light of relevant WTO agreements. The GATS and its annexes on Financial Services with respect to banking, insurance and securities, and, Telecommunications will be examined. Finally, the course will conclude with a detailed analysis of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) and a review of the requirements necessary for a national regime to implement the TRIPs agreement.

Assessment: 100% continuous assessment

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### **LLAW6136 Dispute settlement in the WTO : practice and procedure**

This course is a specialised seminar on issues that arise in the context of WTO law and its

dispute settlement processes. It will unfold along three themes : the foundations of WTO law; the law and policy of dispute settlement in the WTO; and, practice and procedure before WTO dispute settlement and arbitral Panels and Appellate Body (AB). The first theme will review the sources of WTO law, its relationship with, and status within, the legal systems of WTO members. This includes an analysis of the standards of WTO review applicable to national measures applied by its Members within their own domestic legal systems, and the effects of WTO dispute settlement mechanisms on certain fundamental dimensions of national sovereignty.

The second theme will consider the provisions that establish and govern the processes and institutions for the settlement of disputes in the WTO. The principles that govern WTO dispute settlement will be explored, and the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) will be examined in some detail. Equally, particular attention will be given to specialised rules that are applicable to the settlement of disputes arising from the operation of a number of WTO Multilateral Agreements on Trade in Goods (MTAs), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and the Plurilateral Trade Agreements.

The third theme will address issues concerning the scope of the jurisdiction of the WTO Panels and AB, practice and procedure related to claims and defenses, stages of pleadings involved before the Panels and AB, evidentiary requirements, adoption and implementation of the decisions (“reports”) of the Panels and AB, as well as available remedies for breach of WTO obligations, and in particular, for failure to implement a Panel or AB decision.

Assessment: 100% continuous assessment

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### **LLAW6137 Current issues in international arbitration and dispute settlement**

This course will focus on selected issues of current interest in international arbitration and dispute settlement. The topics offered will vary from year to year. The course is likely to be offered by permanent staff of the Faculty, Visiting Professors and Practitioners.

Assessment: 100% continuous assessment

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### **LLAW6138 Arbitration law**

The aim of the Arbitration Law course is to provide students with sufficient knowledge and understanding of the law of arbitration. The specific educational learning outcomes of this course are as follows:

#### **A. Knowledge and Understanding**

- To introduce the fundamental principles of arbitration law set out in detail in the syllabus below.
- To introduce the importance of the Hong Kong Arbitration Ordinance when deciding disputes.

- To introduce the essential elements of a binding arbitration agreement and an enforceable arbitration award.
- To introduce the important role of reading and analyzing the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

#### B. Intellectual and Practice Skills

This course seeks to help students develop the following intellectual skills:

- Ability to analyse and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
- Ability to apply rules of law to hypothetical factual situations;
- Ability to isolate crucial issues in hypothetical factual scenarios; and
- Ability to support oral and written arguments using relevant judicial decisions and statutory provisions.

This course also seeks to help students develop the following practical skills:

- Ability to undertake the reading and research of the sources of arbitration law;
- Ability to express ideas both orally and in writing in a clear and coherent manner; and
- Ability to translate technical legal terms into language appropriate for users of arbitration and dispute resolution generally.

Students will consider a range of theoretical issues and substantive topics in this course, including:

- General Introduction to Arbitration and ADR
- Agreement to Arbitrate
- Appointment of Arbitrator
- Rights, Duties and Powers of an Arbitrator
- Commencement of Arbitration and Interlocutory Proceedings
- Arbitration Hearings
- Evidence in International Arbitration Costs & Interest in Awards
- Appeals
- Enforcement and Execution of Awards

Assessment: 30% research paper, 70% written final exam

#### **LLAW6139 PRC Information technology law**

This course examines the key law and regulations concerning the Internet and related business in Mainland China. It intends to provide a wide-angle view of the Chinese legislative framework for the Internet and IT industry. Against the background that both the Mainland and Hong Kong are the members of the WTO, the course also intends to examine the impact of the Chinese Internet and IT Regulations on cross-border transactions of IT products and services. The law of other jurisdictions and the international treaties, however, may be used to compare with the related Chinese law.

Topics may include:

- Overview of IT and Internet Regulatory System
- Administration of Websites
- Electronic Commerce and Electronic Signature
- Online Publishing and Media
- Online Advertising
- Telecommunications
- Commerce Encryption
- Online Intellectual Property Issues
- Domain Name System
- Legal Protection for Software and Integrated Circuits
- Privacy Protection and Internet Censorship
- Liabilities of Network Service Providers
- Defamation, Negligence and Trespass
- Computer Crimes
- Jurisdiction and Conflict of Law in the Cyberspace
- Online Dispute Resolution

Assessment: 100% research paper

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### **LLAW6140 Intellectual property, innovation and development**

This course examines the interplay between intellectual property law, innovation social and economic development. While it covers copyright and trademark laws and examines how these two areas are affected by digital and Internet innovations, the focus of this course will be on patent law. Particularly this course will explore how cutting-edge technologies such as information technology, biotechnology and green technology have changed the landscape of patent law on the one hand, and how patent law has affected the development of these technologies on the other hand. It uses judicial cases and empirical examples to illustrate how patents for biotech and pharmaceutical inventions have affected the access to technology and essential medicines, and how patent regime has been employed to protect genetic resources/traditional knowledge and green technologies, and whether such protection promotes or impedes innovation and technology transfer in these industries, and how IP protection has affected social and economic development of developing countries and least-developed countries. Last but not least, the course investigates IP-related antitrust issues, and discusses how to strike a balance between IP and competition for the benefit of technology innovation and economic development.

Assessment: 80% take home examination; 20% Class participation

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### **LLAW6141 Regulation of cyberspace: theories of internet and normativity**

The course takes a closer look at the legal and political challenges brought about by the internet and related technologies. The goal is to provide participants with an in-depth understanding of the conflicts involved in the governance of the information environment and equip them with the tools to analyze and assess these conflicts from a normative perspective. This involves two analytical steps: (a) understanding the challenges and limitations of conventional legal institutions on the Internet, especially those administered by the State, and (b) reinterpreting

and reinventing these institutions in the context of the Internet.

In order to achieve this goal, the course combines foundational readings with contextual analyses of legal institutions on the Internet. This approach enables participants to make connections between some timeless questions of law and politics implicated in regulation and revisit them in the broader context of networked information technologies. To complement this framework, class discussions will pick up contemporary cases and events to which the concepts and theories will be applied.

The course is not necessarily targeted at students with prior knowledge of the interplay between law and technology, in general, and law and the Internet, in particular. While not focused on any particular jurisdiction, it takes major common law systems as its starting point.

Assessment: 80% Final research paper; 20% 4 Notes and queries

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### **LLAW6144 Rights and remedies in the criminal process**

This course examines how courts in various common law countries have enforced the legal rights of suspects and accused persons at different stages in the criminal process. The following rights will be studied comparatively: right to be free from arbitrary detention, right to bail, right to legal representation, right of silence, right to trial without undue delay, right against unreasonable search and seizure, and right to a fair trial. The remedies to be examined will include exclusion of evidence at trial, stay of proceedings, declaration, damages, adjournment, and bail.

Assessment: 100% take home examination or research paper

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### **LLAW6146 Law and religion**

Law and religion are two of the oldest social institutions. In various forms, law and religion exist in every human society. Law and religion also have very close relationship to each other. Looking from human history, religion could be so intertwined with law that there could be complete overlap. However, the modern trend is to separate the two so that a wall is built between law and religion. This course will examine the various models on how law and religion interact with each other. Historical as well as analytical approaches will be adopted. Critical questions will be raised on examining the proper relationship between law and religion under different worldviews and various religious traditions including Judaism, Islam, Buddhism, Hinduism and Christianity. The role of religion in public debate will also be considered.

Assessment: 20% group project and presentation, 30% research paper, 50% take home examination

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### **LLAW6149 Healthcare law**

Health care structure in Hong Kong: private health care and Hospital Authority; health insurance; complaint and investigation procedures; Hong Kong Medical Council and

professional misconduct; other healthcare professionals e.g. psycho-therapist and radiologist.

Medical treatment: consent to medical treatment; assessment of competence; role of expert witness; consent by and on behalf of a MIP and MHO; voluntary patients; compulsory detention; mental health review tribunals; medical negligence

Beginning life: family planning; contraception; sterilization; abortion; child destruction; infanticide, wrongful conception, and wrongful life.

Confidentiality: access to medical records; personal data and privacy; reporting statutes; AIDs; protection of genetic information.

Use of body parts and bodily materials; human experimentation: embryo and fetal research; rules governing clinical trials; liability for injuries; the role of institutional ethics committee.

Complimentary medicine: Chinese medicine; Chinese Medical Council; integrating Chinese medicine

Assessment: 100% continuous assessment

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### **LLAW6150 Comparative law**

The common law system provides principles and methods for responding to society's needs and values. Some of those principles and methods will be compared with the legal and extra-legal equivalents in non-common law nations. The influence of special social and economic characteristics will be noted. Appropriate jurisprudential theory will be discussed.

Assessment: 10% presentation, 10% class participation, 80% research paper

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### **LLAW6151 Human rights in Asia**

The course will cover important contemporary human rights issues in Asia. These current issues may be regional or country-specific. The teaching may draw in history, culture, politics and law to take a holistic approach to the many human rights challenges that countries or regions within Asia face. It will nevertheless be dominated by the legal approach.

Assessment: 100% continuous assessment

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### **LLAW6152 Dealing with legacies of human rights violations**

This course will examine the ways that nations around the world have dealt with, and are dealing with, legacies of gross violations of human rights of the past. It will draw from several disciplines but will be dominated by the legal approach which is firmly rooted in the right to an effective remedy for gross violations of human rights and the duty of States to investigate, prosecute and punish such acts. Issues to be examined will include the policy choices that nations emerging from sustained periods of repression or armed conflict have to make, and the types of mechanisms that have been employed by countries that have sought to deal with such

situations. The course will, *inter alia*, examine whether there is a chasm between the striking promises made by the ubiquitous use of terminology such as ‘truth’, ‘justice’, ‘healing’ and ‘reconciliation’ and reality. How does public opinion, most significantly, the views of victims and survivors, fit into international diplomacy and local politics? What role can traditional dispute resolution play? The course will also examine the work and effectiveness of international criminal tribunals, ‘internationalised domestic courts’, commissions of inquiry, and other methods of reckoning with past wrongs in societies around the world, as well as consideration of new processes that are evolving.

Assessment: 15% class participation, 35% group exercise, 50% research paper

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### **LLAW6153 Business and human rights**

This course investigates the relationship between business and human rights in the context of globalisation and as a distinct field within the broader corporate social responsibility (CSR) movement. The course will invite students to explore the relevance of human rights standards and norms to business operations and consider the extent to which corporations are or should be bound by human rights law and obligations. The legal, political, economic and social issues arising from the cross-border activities of multinational enterprises (MNEs), particularly in developing countries, will be examined against the backdrop of the growing public demand for greater transparency and accountability. The course will also analyse the role and methodologies of civil society seeking to influence corporate human rights practices, and the ways in which some MNEs have responded to growing pressure to address human rights issues through initiatives that seek to connect CSR, human rights and business strategy by managing reputational risk and promoting human rights as a source of competitive advantage in the marketplace.

Assessment: 70% Research paper; 20% advocacy exercise; 10% Class participation

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### **LLAW6154 Competition law I**

This course introduces students to basic concepts of competition law (known as antitrust law in the US). Despite being relatively new to the region, competition law has become highly pertinent in East Asia in recent years. In China, the Anti-Monopoly Law came into effect on August 1, 2008 and has attracted much attention around the world ever since. The Legislative Council of the Hong Kong SAR has recently enacted the region's first cross-sector competition law. With its aggressive enforcement stance, South Korea has become a favorite jurisdiction for multinational corporations to lodge complaints against competitors. With increasing cross-border enforcement across the globe, competition law will surely take on yet greater importance in the future.

The two most developed and influential competition law jurisdictions are the United States and the European Union. This course (LLAW6154 Competition law I) will focus on US antitrust law. EU competition law will be covered in LLAW6155 Competition law II, offered in the second semester. Students are encouraged to take both courses (Competition law I & Competition law II) to acquire a global/comprehensive understanding of competition law. Some attention will be devoted to the new Hong Kong Competition Ordinance in both courses (especially in Competition Law II).



This course will focus on two of the three main areas of competition law: restrictive agreements and abuse of dominance. Regulation of mergers will be covered in a separate course.

Assessment: 80% take home examination, 20% class participation

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### **LLAW6155 Competition law II**

This course focuses on competition law of the European Union, with references made to the newly-enacted Hong Kong Competition Ordinance and US antitrust law. Despite being relatively new to the region, competition law has become highly pertinent in East Asia in recent years. In China, the Anti-Monopoly Law came into effect on August 1, 2008 and has attracted much attention around the world ever since. The Legislative Council of the Hong Kong SAR has recently enacted the city's first cross-sector competition law.

Given the first and second conduct rules of the Hong Kong Ordinance are substantially modelled on Articles 101 and 102 of the Treaty on the Functioning of the European Union ("TFEU"), the EU case-law, regulations, and guidelines etc. on Articles 101 and 102 will provide useful guidance to the interpretation and application of the Hong Kong conduct rules. This course will examine in detail two major areas of EU competition law: restrictive agreements (regulated under Article 101 TFEU) and dominant-firm conduct (i.e. abuse of dominance, regulated under Article 102 TFEU). While references will be made to Hong Kong and US law, the take-home examinations will focus exclusively on the application of EU principles to competition law issues.

Assessment: 100% two take home examinations

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### **LLAW6156 Comparative constitutional law**

This course reviews the operation of certain key aspects of the Basic Law of the HKSAR within a comparative context. Regular reference will be made to operational characteristics of Public Law in Canada, Australia, the United States and certain other jurisdictions. Topics may include: an overview of the nature of Constitutional Law and Constitutionalism, the theory and nature of Judicial Review, the operation of the adjudicating process in political entities where sovereignty is divided to some degree, the right to due process, equality rights and other key civil and political rights including freedom of expression and freedom of the press.

Students will be evaluated by a written assignment (between 3000- 4000 words) that accounts for 80% of the overall grade and an oral presentation/ class participation that accounts for the remaining 20%. There will be no examinations.

Assessment: 100% continuous assessment

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### **LLAW6164 Principles of family law**

Family law is about people in a domestic setting; how domestic relationships are created, dissolved (which involves status alteration), reconstituted (remarriage, adoption), how

relationships are regulated and disputes resolved. Hong Kong Family law is both common law and statute-based. However, the rules and principles are not ends in themselves, but they serve certain purposes or goals.

In this course, we examine the basic principles governing the creation of family relationship, termination and its consequences, how does the law deal with the evolving notion of domestic relationships, abuse occurring within such relationships, the protection it offers to the weaker party and the reconstitution of family relationships.

Families are undergoing changes constantly, as is society. Debates on transsexual marriage, same-sex marriage reflect this. Families are the microcosm of society bearing all the pressure which society exerts on its members. The challenge of the course is to understand the problems facing families today, to what extent the law is in tune with these problems, how best these problems could be alleviated, minimised or resolved by law reform or other means.

The objectives of the course is to enable you to learn the basic family law rules, understand how these rules are applied to a particular legal problem (which you need to utilise as a lawyer). As rules are not ends in themselves and they promote certain underlying values – you are required to critically analyses and assess what outcomes/values these rules promote; whether these values are consistent with prevailing societal values along certain theme, such as: (i) effective dispute resolution, (ii) protective (physical/economic) function of family law and (iii) upholding fundamental societal values concerning family, personal relationships and human rights.

Assessment: 45% Written examination; 45% assignments and presentation; 10% Attendance and class participation

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## **LLAW6165 PRC economic law**

This course examines the general framework of major economic legal institutions in China, broadly defined as the legal and regulatory structures governing business activity in both of the public and private sectors where the role of state oversight is prominent. Three issues will be discussed: (1) the making and implementation of laws and regulations on several critical aspects of doing business in China; (b) the process of institutionalizing legal governance for Chinese commerce as well as paving a level playing field for market participants; (c) the impact of globalization, particularly since China's entry into the World Trade Organization (WTO), on the development of the country's economic legal institutions.

Four areas of law are covered:

- Enterprise law: how to start and operate a business?
- Financial law: how to finance a business?
- Competition law: how to curb anti-competitive business activity?
- Consumer protection law: how to prevent businesses from harming consumers and to hold businesses accountable for product liability?

The primary objective of this course is to help students develop a general understanding of the legal and regulatory framework of major economic institutions in China, particularly those involving a significant role of the Chinese state in the economy. To achieve this objective, the

course will examine key laws and regulations on important aspects of the Chinese economy and their reform during China's transition from a command economy to a market economy. Domestic debates over policy orientation and reform strategy will also be reviewed to show students how China's economic legal regime has evolved in the face of changing reform dynamics shaped by both domestic and global conditions.

Assessment: 20% group presentation, 80% take home examination

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### **LLAW6167 PRC tort law**

This course introduces the history of PRC tort law, the PRC Tort Law (2010), relevant principles of PRC General Principles of Civil Law on which tort law is based, other tort-related laws, and regulations, and judicial interpretations. The course analyzes the tort cases which have been adjudicated by Chinese courts to see how cases are decided under the existing tort laws. The discussion of the laws and cases will aim to solve the substantive issues including liabilities based on fault such as personal and property injury, tort injury to personality rights and family/business relations; liabilities without fault such as product liability, environmental pollution, ultrahazardous activities and injuries caused by domestic animal; fault-presumed liabilities such as medical malpractice, motor-vehicle traffic accident and work-related accidents. These issues and various concepts such as intentional torts, negligence, vicarious liabilities, and joint and several liabilities will be discussed in comparison with the common law counterparts.

Assessment: 100% examination

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### **LLAW6170 Introduction to information technology law**

Information and communication technologies are part of the very fabric of contemporary societies. Their understanding and mastery are a required form of literacy in the 21st century. Social dynamics everywhere have changed because of ICTs and in the image of these a new social paradigm has been formed. Sociologist Manuel Castells has termed this new social paradigm "informationalism", in contrast with the idea of "industrialism" that characterized 20th century societies. As a social science, law is not immune to these transformations but is rather profoundly influenced by them, to the point that we can speak of a new stage in legal scholarship and practice – of the Law of the Information Society. In our course, we keep the name "Information Technology Law" for historical reasons, but our objective is precisely that of empirically assessing some of these transformations which, in its different areas, the law of contemporary societies has been undergoing. While other courses in our programme (for instance, "Regulation of Cyberspace") question at a higher level of abstraction the normative foundations of such transformations, in "Introduction to IT Law" our aim is to give you an introductory overview of the concrete, practical shifts that the institutions of law have been experiencing in a number of different areas – from Identity and Privacy to Intellectual Property, and from Defamation and Liability in Virtual Worlds to Cybercrime and Jurisdiction. The focus of our course is on major common law jurisdictions, taking the law in the United Kingdom and in Hong Kong as a starting point. Nonetheless, occasional – and in some areas extensive – references to the law in the European Union will be made.

Assessment: 35% mid-term essay, 65% take home exam

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### **LLAW6171 Corruption: China in comparative perspective**

This course examines the pervasive problem of corruption in the People's Republic of China in comparative perspective. The course aims to combine theoretical understanding of corruption with the best practice in prevention, investigation and punishment of corruption. Subject matters to be covered in the course include perception of corruption, definition of corruption, theoretical observations, case studies on corruption, anti-corruption system, legal framework, education and whistle blowing, and international cooperation.

Assessment: 100% research paper

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### **LLAW6172 Carriage of goods by sea**

Bills of lading and other sea transport documents (e.g. waybills, delivery orders); express and implied terms in contracts of affreightment (concerning seaworthiness, deviation, dangerous cargo etc); the Hague and Hague-Visby Rules; voyage charterparties and time charterparties; maritime arbitration; electronic data interchange (EDI) and electronic bills of lading.

Assessment: 100% examination

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### **LLAW6175 Law and literature**

This course explores the complex interactions between literature and the law. Even though the two disciplines may seem distinct, law and literature overlap in a variety of ways. Both are linguistic media and are constituted by narratives as well as fictions of various sorts. Throughout the course we will assess the relationship between law and literature, seeking to understand how the law is depicted in literature as well as how literary practices and techniques are utilized within the law. Why do legal themes recur in fiction, and what kinds of literary structures underpin legal argumentation? How do novelists and playwrights imagine the law, and how do lawyers and judges interpret literary works? We will think through these questions by juxtaposing novels, plays, court cases, and critical theory. This course welcomes students who are eager to question the fundamental assumptions of what they study, who are curious about how the law intersects with other disciplines, and who would like to learn about the cultural life of law. It does not assume any previous training in literary criticism. Prerequisite: a previous course in any legal and/or literary subject.

Assessment: 20% class participation, 30% mid-term essay, 50% final essay

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### **LLAW 6176 Online dispute resolution**

This course will introduce students to the use of information technology as a means of facilitating the resolution of disputes between parties. Despite the prevalent impression that online dispute resolution (ODR) is simply the online equivalent of alternative dispute resolution (ADR), the course will demonstrate to the students that ODR can augment the traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Although the course will focus on the technological application in

out-of-court alternative dispute resolutions, it by no means ignores the potential that these technologies have for direct application in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical value to practitioners and academics.

Assessment: 60% research paper, 40% in-class Moot Court practice

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### **LLAW6177 Comparative environmental law**

This course is concerned with how various jurisdictions use law to address environmental problems such as air pollution, land contamination, and deforestation.

What are the factors that influence law-making, enforcement and compliance with environmental law in each jurisdiction? What problems arise from the “transplanting” of environmental laws from the developed world to developing countries? What can Hong Kong and mainland China learn from the experiences of the United States (US) and the European Union (EU) in environmental law and policy? How does federalism within States and regional economic integration amongst States (such as in the EU) influence the application of environmental law within a nation? These are some of the questions that will be explored in this course.

A practical approach will be adopted in this course to highlight the various policy trade-offs inherent in designing and implementing environmental law and policy. The course will draw upon examples from Hong Kong, mainland China, the US, the EU and other countries in the Asia-Pacific region.

Assessment: 100% continuous assessment

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### **LLAW6178 Law, economics, regulation and development**

This course is premised on a conviction that the law does not exist in a vacuum, and the study of the law should therefore not be confined to a narrow focus on legal doctrine and case law. The aim of this course is to provide a broad survey of inter-disciplinary approaches to the law, which will provide students with the basic toolkit to question and analyze legal theories and institutions from alternative perspectives. The belief is that students will gain a richer and more nuanced understanding of the law and legal methods as a result.

The course comprises of three broad components: (1) Law and Regulation, (2) Law and Economics, and (3) Law and Development.

The law and regulation component of the course seeks to examine the role of law as an instrument of regulating economic and social activity. The course will explore theories of regulation, regulatory techniques and instruments, and issues of efficiency, accountability and legitimacy in relation to regulation. It will also explore the application of economic concepts to the law, focusing on areas such as torts, contracts, and property rights. For instance, the course will examine how economic concepts have been applied to provide a benchmark for determining negligence in torts.

Finally, the law and development component will examine the relationship between law and economic, social, and political development. It will survey theories concerning the meaning of development and the potential role of law and legal institutions in the development process.

Assessment: 15% class participation, 10% symposium participation, 75% 3 short research papers

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## **LLAW6179 Multiculturalism and the law**

Conquests, colonial projects have long been responsible for the instigation of large-scale ethnic and national mobility in order to further the ends of empire, for example, for the purposes of labour and industrial development or populating land considered to be terra nullius. In the aftermath of the First and Second World Wars, which led to a significant redrawing of national boundaries in some regions and more significantly, the liberation of countries in other of the world, people once again moved; some, voluntarily and in pursuit of their dreams whilst numerous others, became victims of exile due to economic, social or political circumstances. By the end of the Cold War period, the showdown between capitalist and communist ideological power blocs waned as a result of the failures of Gorbachev's communist-styled government in the Soviet Union and the resultant loss of confidence in the Chinese Communist Party. This and a combination of factors including America's embrace of isolationism, the onset of the Gulf War and economic and social strife, contributed to a pattern of migration that saw massive influxes of immigrants in Europe, Australia and America. The 21st Century has not seen any reduction in this trend of mass migration. Indeed, in the aftermath of 9/11, with the war in Iraq and Afghanistan, the exodus from the Middle-Eastern region continues. Similarly, there is widespread migration from the Eastern block of countries after the break up of the former Soviet Union.

This demographic shift has meant that the nation-state framework that originally dictated the exercise of sovereignty over one's subjects is in need of a significant overhaul. With the growing multicultural representation of communities residing within their borders, nation states have had to grapple with the challenge to the very conception of a monolithic nationhood that comprises the experiences of a singular nation, peoples or culture. Concomitantly, governance structures predicated on presumptions about shared political, social and secular ideals have also demonstrated their inability to cope with the increasing number of 'nationals' that now profess divergent worldviews and commitments, especially where these views derive from personal frameworks of governance such as religious or cultural beliefs and practices.

In the aftermath of the Second World War and in an age of decolonisation, an increasingly complex regime of international provisions has emerged to safeguard the fundamental rights and interests of all people as human beings. Particularly noteworthy and of interest are the development of international human rights law in the form of framework conventions that seek to recognise the risks faced by vulnerable minorities and to protect them against violations of their religious, cultural, linguistic and political rights. These ideas became morally compelling given the atrocities and persecution minorities experienced during times of war, conflict, and colonisation. Apart from the protection of their differences and identity on grounds of their equal worth and dignity, the naturalisation of immigrants into nationals has foreshadowed a need to include their voices in democratic governance structures in light of their new political identities. Yet, naturalised citizens often fail to have their voices heard due to lack of representation, exclusion or marginalisation of their voices and concerns and oftentimes, they

lack the capacity to exercise such agency to engage political infrastructure. These circumstances have precipitated one of the most serious crises of identity in an increasingly globalised world, whose borders continue to shrink and shift and as citizens and groups become highly hybridized. Each of these hybridized identities is seeking recognition and protection of their distinct rights and interests whilst sharing geopolitical spaces with other competing identities in close proximity.

This conflict which has manifested itself in the form of tensions regarding minority rights, the freedom of religion, the right to practice one's culture and group rights and their limits. These conflicts have most acutely manifested themselves in liberal democratic states where these values are constitutionally enshrined. Questions have also arisen as to the extent of the state's obligation to honour these interests and rights through appropriate schemes in the name of minority rights and the implications of accommodation, assimilation or integration on the core commitments that underscore the liberal democratic constitutional framework, including values such as equality, human dignity and non-discrimination on grounds of race, religion, culture, nationality, gender or other status. Oftentimes, the protection of some of these values results in a conflict with another entrenched value. In the circumstances, the liberal project's commitment to individual freedoms and the practice of democratic engagement faces a paradoxical challenge that requires it to reconcile internal conflicts between these deeply held values especially when these freedoms stand to challenge the very rights framework from which they derive. Modern pluri-national states demand an alternative discourse that facilitates the reconciliation between meaningful plurality and the potential accompanying threats to the political structures that facilitate such plurality in the first place.

The course examines this conflict through comparative and interdisciplinary lenses, drawing on material from law, political theory, philosophy, and postcolonial studies to better understand the nature of identity, rights, citizenship and the discourse of oppression, violence and conflict. This work will be used to equip students with an enriched analytic framework through which to conceptualise the problems as they emerge in various countries today and to examine and understand the use of various governance structures, approaches and arguments to reconcile conflicting rights within the liberal constitutional framework in light of international human rights commitments. The course considers the use of various tools by courts around the world in dealing with multicultural difference as manifested in the form of language, dress, religious symbols and religious or cultural practices as well as their impact on immigrant and sub-national identities, and evaluates these outcomes in terms of the guarantees of equality and non-discrimination. In doing so, the course material draws on case studies from a range of jurisdictions, including America, Australia, Canada, France and other parts of Europe, Hong Kong in addition to salient international cases that have come before regional courts such as the European Court of Human Rights and international tribunals like the United Nations Human Rights Committee to compare the practices of various jurisdictions to explore the focal themes of the course and to consider the feasibility of integrated approaches to address this contemporary challenge.

The ultimate objective of the course is to probe and question existing approaches to balancing conflicts between fundamental rights and to identify and develop suitable mechanisms and frameworks through which to understand and address the challenges posed in multicultural societies. It is hoped such a critical inquiry can motivate discussions on how the state can better balance competing values by being mindful of the nexus of certain rights to the micro-level identities of minorities in a political community whilst maintaining the allegiance of all groups and individuals as nationals.

Assessment: 75% 3 short response papers, 15% symposium participation, 10% class participation

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### **LLAW6180 Space law and policy**

This course introduces students to the study of space law. It will enable them to understand the socio-economic environment of space law from the legal standpoint and will provide them with a detailed overview of the substantive rules of law relating to peaceful use of outer space, liability, registration, space commercialization, launching activities, remote sensing and environmental issues. It will teach them how to develop an understanding of the theoretical nature and practical aspects of the function of telecommunications services in mainland China and Hong Kong. Students will critically analyze the relevance and substance of Space Law and related problems, such as space launching activities, remote sensing and space debris, and gain an understanding of the process of telecommunications liberalization within the World Trade Organization (WTO).

Assessment: 100% continuous assessment

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### **LLAW6181 Management and commercialization of intellectual property**

Topics include:

- Technology transfer and licensing
- Commercialization of innovations
- IP portfolio management
- IP issues in merger and acquisition
- IP issues in franchising and outsourcing
- IP and standard setting
- IP and competition
- IP litigation strategies
- IP issues in innovation industries such as ISP's liability and safe harbor, keyword advertising and digital music licensing.

Assessment: 100% in-hall exam

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### **LLAW6182 International organizations**

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as affecting, our daily lives. The body of rules that govern the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

This course has two aims. First, it will provide an in-depth look at this area of law from a



traditional perspective. Starting with a general history of international organizations and overview of current international organizations, the course will develop a definition of international organizations, which focuses on international legal personality, and then will develop a framework for classifying international organizations. This course next will explore the sources of power for international organizations, which involves the law of treaties and the doctrines of attributed powers, implied powers, and inherent powers, among other important principles. This course then will compare their structures, decision-making processes (including the settlement of disputes), membership and financing, privileges and immunities, sanctioning abilities, treaty-making powers, and relations with other international organizations, among other aspects. The United Nations, its subsidiary organs and its specialised agencies will be a major focus of the course, though many other international organizations also will be studied. Relevant ICJ, PCIJ and other case law will be given particular emphasis in understanding these powers and functions of international organizations.

Second, with this basic understanding of the law of international organizations, students will be expected to explore contemporary legal debates surrounding international organizations. The course will discuss the problem of responsibility for international organizations and creating limitations on their powers. Indeed, while international organizations first were seen as helping to bring “salvation to mankind,” today they are seen in a less than ideal light, largely due to concerns over their misdeeds and accountability for those misdeeds. The course will explore the problems associated with functionalism – the predominant theory associated with the expansion of international organizations’ powers. The discussion will move on to exploring the possibility of creating limitations and accountability for international organizations through such alternative tools as constitutionalism, judicial review, an emphasis on the rule of law, and global administrative law, to name a few. Other debates to be discussed include the legal status of decisions and resolutions of international organizations in light of the sources doctrine of international law, and whether the differences between international organizations that stem from the differences in their constituent instruments make it impossible to talk of a unified body of law that governs these different entities. Students will be expected to develop their own thoughts on these debates, which they will demonstrate through their participation in class, as well as through the writing of at least four short case comments and either a longer paper on a topic to be chosen by the student in consultation with the professor.

Assessment: 50% case comments, 50% research paper

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### **LLAW6183 Animal law**

This course examines the law relating to non-human animals. The course will introduce a range of theoretical perspectives on the way in which we think about animals, with a focus on moral/ethical theories of animal interests and animal rights. The welfare model of animal law, as expressed through relevant legislation and case law, will be critically analysed. While much of the consideration of this law will have an Asian orientation, attention will also be given to international developments in animal law. Finally, the course will explore practical ways in which lawyers may advance the interests of animals.

Assessment: 70% Written research assignment; 30% seminar presentation

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### **LLAW6184 Law and film**

Legal actors, institutions and problems have fascinated filmmakers since the early days of cinema. This course examines the ways in which the law and the legal system have been represented in a variety of films, and also considers the ways in which films engage with legal debates and controversies. This course is cross-listed between the Department of Law and the Department of Comparative Literature; it aims to encourage reflection on the cultural lives of the law and also on a central theme in film studies. No prior background in film studies or the law will be assumed.

Assessment: 15% class participation, 15% written questions, 10% paper proposal, 60% term paper

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### **LLAW6185 China investment law**

This course provides a comprehensive, informed treatment and analysis of the legal, policy and business aspects of foreign direct investment in China. Areas covered include: current PRC foreign investment policies and priorities, including “encouraged industries”; investment incentives and investment protection; PRC regulatory authorities and government approval process; offshore structures; PRC foreign-related business and investment organizations: representative offices, branch offices, holding companies, foreign investment enterprises (FIEs): Sino-foreign cooperative and equity joint ventures, wholly foreign-owned enterprises (WFOEs), listed and unlisted Sino-foreign joint stock limited companies (JSLCs); practical joint venture contract drafting and operational issues; trading and distribution; technology transfer; conversions; mergers and acquisitions; selected regulatory issues: corporate income taxation, foreign exchange control; FIE debt and equity financing; out-bound China investment.

Assessment: 100% research paper

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### **LLAW6186 China Trade law**

This course provides a focused, legal and policy treatment of China’s conduct and regulation of international trade at both the macro- and micro-economic levels. Areas covered include: China’s participation in the WTO, and in other multilateral, regional and bilateral trade-related arrangements, including ASEAN+ and China-ASEAN FTAs; Regulation of China’s foreign trade: PRC regulatory authorities, PRC Foreign Trade Law, foreign trade operators (FTOs), foreign trade agency: commissioning and entrustment arrangements; PRC customs, licensing and inspection/standards systems, and trade remedies: particularly, China’s anti-dumping regime; WTO, US and EU anti-dumping and subsidies/countervailing codes and related non-market economy (NME) treatment of China’s export enterprises and industries; Trade transactions: standard-form contracts, import-export sales contract issues arising under the PRC Contract Law and CISG.

Assessment: 100% research paper

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### **LLAW6187 Advanced topics in competition law**

This course focuses on the interface between intellectual property laws and competition law in the two leading competition law jurisdictions in the world: the US and the European Union (“EU”). The interface between these two bodies of law is one of the most complex and controversial, and yet theoretically interesting, areas of competition law. This interface juxtaposes the public policy rationale behind intellectual property laws and competition policy, and requires the enforcement agencies and the courts to strike delicate balances between these two policies. With respect to patent law, for example, the treatment of patent rights under competition law requires the courts to calibrate the provision of innovation incentives without incurring an excessive loss in consumer welfare. Similar tradeoffs are also found in the interface between copyright law and competition law, and to a lesser extent, between trademark law and competition law.

Most of the thorniest issues in the interface between intellectual property laws and competition law arise under patent law. As such, this course will largely focus on the patent competition interface. The first half of the course will focus on the treatment of the exercise of intellectual property rights under US antitrust law, with topics including intellectual property enforcement, tying, unilateral refusal to deal, deceptive conduct in standard-setting organizations, predatory product design, and various kinds of collusive conduct. The second half of the course will cover similar topics under EU law.

Assessment: 100% Two take home examinations

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### **LLAW6188 Intellectual property policy and practice**

This course aims to add the theoretical aspects to the current IP courses and ask students to re-examine recent major cases in the US and commonwealth countries. The first part of the course would deal with the theories and policy analysis that justify IP protection and the rest deals with legal doctrines and practice with reference to the theories and policy analysis.

Assessment: 20% class participation, 80% weekly response papers or a research paper

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### **LLAW6189 International law and modernity for a multipolar world**

The course looks at the roots of the Western approach to international law in historical context, since the beginning of colonialism and imperialism. Its perspective is more philosophical than political, considering international law as a part of a wider scientific, cultural, religious as well as economic revolution. Key Western international law thinkers such as Vitoria, Gentili, Grotius, Vattel and Kant are examined, before coming to the 19th century expansion in the Far East. Close attention is played to the 19th century in China, especially the influence of the American Henry Wheaton and his translator, William Martin. This follows with a multipolar consideration of contemporary Chinese thinkers who are reviving Chinese classical thought on international ethics, as well as considering similar developments in the Islamic world. Some place is also given to Western internal critiques of international law from a critical or postmodern perspective.

Assessment: 10% class participation, through introducing discussion of texts, 90% essay

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### **LLAW6190 International law in a world of crises**

Ideally this course is a follow on from the more introductory course, Public international law. It adopts a rigorously critical view of the capacity of positive international law to deal with contemporary problems of international society. The course first introduces the complexities of international law methods in defining and dealing with international problems and then it provides a framework for addressing these problems in an interdisciplinary perspective. That is to say there is also added a political science and a political theory dimension.

There is an introduction to Crisis Theory after which follows a critical reflection on the legal skills employed by the International Court of Justice since the 1980s to deal with major crises. After this the course introduces a moveable selection of major crises such as: Islamic militant violence; ethnic conflict and its geopolitical significance; the international financial crises; nuclear proliferation; the idea of the UN alongside that of a “Coalition of the Democracies”; the strategic and economic significance of land and maritime boundary disputes. Students are encouraged to work and research together in an interdisciplinary way to propose solutions to the contemporary problems selected.

Assessment: 90% take home essay, 10% class participation

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### **LLAW6192 Arbitration in Greater China**

The course will introduce students to the arbitration systems in the Mainland, Hong Kong, Macau and Taiwan, covering their major distinctions in the regulations and practices of arbitration. The course will discuss, as such, main statutes governing arbitrations in the respective jurisdiction, relevant arbitration jurisprudences developed by the courts of each place, and arbitral rules and practices by major arbitration institutions (CIETAC, BAC, HKIAC, CAA, and MIA) in the region.

Assessment: 100% research paper

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### **LLAW6193 Legal translation**

This course is designed to give practical training in legal translation. It aims to produce qualified legal translators for both the legal and translation professions. It will be taught in Chinese (Cantonese). Except for students who have already completed Use of Chinese in Law I, applicants for enrolment in this course are required to complete a pre-class aptitude test and a preparatory course.

There will be two modules, one on legal translation from English into Chinese and the other, from Chinese into English. The two modules will each cover three streams of legal translation, namely, contracts, court judgments and legislation. Professional legal translators from these individual streams will be teachers in the respective streams of the course. Samples of legal translation will be analysed in lectures or workshops. At one-to-one or small group tutorials, the tutors will help the students to identify their own strengths and weaknesses as revealed in their marked translation exercises, and to enhance their legal translation skills accordingly. There will be no examination for this course. Students' performance will be assessed

continuously by written assignments.

Assessment: 100% continuous assessment

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### **LLAW6194 Global business law I**

Global business law I deals with the growth of a business from being a mere domestic seller all the way through to its decision to become a foreign investor operating half-way across the world. In the course of that growth it will face international litigation, arbitration, choices about business from abroad, lawsuits abroad, investment treaties, its own lawsuits against foreign “host” states, and questions about how it plans to finance its foreign ventures.

Assessment: 100% take home examination

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### **LLAW6195 Global Business Law II**

The course employs a problem-oriented approach, and focuses on the law in action; namely, strategic choices which a business engaged in international trade would face.

The course starts off by introducing the global trading system (GATT, WTO, etc.). The first few weeks will introduce you to a problem faced by a firm which is either trying to sell or buy from abroad but faces a host of regulatory barriers. Some of these barriers are in the form of tariffs, others are not. While some firms are manufacturers seeking new markets abroad, others are domestic retailers or manufacturers trying to source internationally for cheaper goods or manufacturing inputs.

We will then address the case where the firm is not selling abroad, but wishes its own government to purchase its products to the exclusion of foreign products.

The course then turns to a different kind of business problem. What happens when a domestic firm finds itself facing such stiff competition from foreign imports that its very survival may be at stake? What tools are available to it to fend off such competition? When can such a firm claim that competition from abroad is “unfair”, and does the law recognise such claims? Should it? In other cases, competition may not be unfair, but can the firm claim that it should be protected by its government nonetheless? What can other firms do in response to such action?

All these problems involve public/governmental regulation. To that extent we are dealing with public law. However, the issues we will address matter to whether a business will fail or succeed, depending on the available rules and how such rules may be used by these firms.

While we will be using a US casebook, many of the issues you will encounter are universal. The more minute details of the US regime may be peculiar in places, but there is in fact a high degree of world-wide convergence in the sorts of trade rules we will encounter due to widespread membership of the WTO. By using a US casebook, we also benefit by learning from a body of trade rules which has had a genuine, historical impact on the evolution of the global trading system. For many participants in the course (excepting exchange and other students from US law schools), there will be an opportunity to explore the rules of a major export market and to learn some US law. Most importantly, the casebook we will use is

probably the best of its kind in introducing the subject from a business viewpoint.

Assessment: 100% take home examination

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### **LLAW6196 Preventative law: approach to conflict prevention**

Lawyers can play a key role not just in the resolution of disputes, but also in the prevention and management of conflicts within organizations and societies. This course will explore key processes through which a system is consciously created to address conflicts among individual and entities, as well as legally defined disputes. Similar to the public health model, which aims to promote positive individual and collective habits that stem the occurrence of disease, this course seeks to examine those mechanisms, principles and processes oriented toward the prevention of conflict. The approach of the course will be both theoretical and participatory in nature.

Assessment: 75% research paper, 25% class participation

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### **LLAW6197 Law and social theory**

Amongst the most powerful of contemporary analyses of law and legal institutions are those which draw on the tradition of social theory. These trends now constitute a discrete area of academic enquiry that is of growing importance and relevance. This course offers a series of readings which draw on that tradition and think them through in relation to contemporary legal problems.

The course will develop students' knowledge of the basic paradigms of social theory as it relates to law and place the development of law in social theoretical and historical context. By developing a critical understanding of the relationship between law and social theory students will assess the differences between diverse theoretical approaches and be able to develop and articulate their own understanding of the appropriate paradigms for analysis in legal and social theory. The aim is therefore to enhance students' understanding of contemporary law and legal institutions.

Topics to be covered may include: competing theories of law and modernity; analyses of alternative approaches to power and security; the role and consequences of processes of juridification; and theories of globalisation.

Assessment: 20% presentation, 80% research essay

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### **LLAW6198 Chinese family law in comparative perspective**

This course will study Chinese family law from a comparative and historical perspective. It covers issues such as marriage, divorce, child custody, abuse and neglect, adoption, cross-border marriage and new reproductive technologies.

Assessment: 100% continuous assessment

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### **LLAW6199 Law and policy**

This course explores and contrasts the different methodologies inherent in the disciplinary approaches of legal and policy analysis. It examines how each approach is relevant to the other in different practical situations e.g. in court and in government policy formulation. Each student will present a seminar paper that applies both legal and policy analysis to a practical issue of their choice.

Assessment: 100% research assignment

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### **LLAW6200 Trademarks and unfair competition**

Trademark law and the law of unfair competition play a crucial role in the commercialization of all varieties of goods, ranging from high-end fashion products to daily routine products. The course aims to explore the cutting-edge issues and fundamental theories and policies in the rapidly developing trademark law and the law of unfair competition. With a focus on the law in Hong Kong and Mainland China, the course also broadly examines the relevant doctrinal developments in the United States and European Union, and discusses the impacts of digital technology on international and domestic trademark protection. The course will cover the following topics:

- . Subject matter of trademark protection
- . Distinctiveness
- . Registration
- . Genericity
- . Exclusive rights
- . Limitations on exclusive rights/Trademark fair use
- . Infringement
- . Trademark dilution

Assessment: 100% continuous assessment

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### **LLAW6201 PRC taxation law and policy**

The course first examines legal, economic and political considerations relevant to the formulation and implementation of tax law and policy in the PRC. It then introduces the legal framework of tax law in the PRC from the legislative, administrative and judiciary perspectives and illustrates how tax law is developed, implemented, interpreted and enforced. The major components of China's tax system will be reviewed, including VAT, business tax, enterprise income tax and individual income tax. Other types of taxes which are experiencing rapid developments in the regulatory framework, e.g., real estate related taxes and environmental related taxes, will be explored and discussed. Given the increasing significance of the PRC in international trade and investment, tax implications arising from cross-border transactions involving PRC parties and the application of tax treaties will be analyzed.

Assessment: 20% participation, 80% research paper

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## **LLAW6202 Law, literature and film**

Law, literature and film come into contact on multiple levels: novels and films about the law influence the way society understands legal institutions and processes, and the law in turn regulates cultural and artistic production. This course introduces graduate students to the burgeoning fields of ‘law and literature’ studies and ‘law and film’ studies by exploring the ways in which literary, legal, and filmic discourses intersect. We will juxtapose novels, films, trial transcripts and critical theory in order to re-examine the boundaries between the three disciplines. Texts for discussion to be chosen from works by Gustave Flaubert, Oscar Wilde, E.M. Forster, Franz Kafka, plus a selection of films by both local and overseas directors.

Assessment: 100% continuous assessment

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## **LLAW6204 Introduction to common law**

This course aims to provide a strong grounding in and understanding of the principles governing the development and the operation of the Common Law.

Part A of the course, introduces students, first, to the nature and philosophical underpinnings of the Common Law. Next it looks, in a series of Seminars at: the sources and general historical development of the Common Law; the importance of precedent; and of modes of statutory interpretation. It then moves on to look at a particular longitudinal case study (product liability) followed by a review of Common Law approaches to Criminal Law, Tort, Contract, Property and Succession.

Part B of the course first examines the divergent impact of the Common Law approach on the development of Public Law in the UK and the USA. Next it considers the way in which the Chinese (Mainland) political-legal structure has been shaped by historical events both during the Imperial period and post-1912 and post-1949. It moves on to look at the way the Public Law aspect of the Common Law has developed within British Hong Kong and in the HKSAR. Finally this part of the course considers aspects of the inter-action between the HKSAR Common Law system and the PRC legal system.

The subject will be “book-ended” by an Introductory Session in the First Seminar and Concluding Seminar. The Introductory Session will be designed to provide a subject “road-map” for students and to encourage them to think about (and discuss) how developing a stronger understanding the Common Law may be usefully informing to their overall understanding of the role, utility – and limitations – of legal systems in helping to regulate State-Citizen and Citizen-Citizen interaction. The Concluding Seminar will aim to foster some thoughtful reflection and discussion on certain (Common Law related) topics chosen for their relevance within China today.

Assessment: 25% reflection essay, 75% take home examination

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## **LLAW6206 Cross border corporate finance : issues and techniques**

The course will provide an understanding of the underlying principles and policies of corporate finance law, and will familiarise students with the actual practices of the markets and



techniques of key transactions. It will focus on the consideration and treatment of issues that arise when financing transactions. Seminars to introduce the topics will be augmented by exercises which will be designed to simulate real transactions. Students will be divided into teams, which will be pitched against other teams, role-playing, lawyers, financiers, borrowers/fund-raisers and investment bankers.

The course will be useful to those who intend to work in the corporate and corporate finance sectors, in law firms or investment or commercial banks.

Assessment: 30% participation in term exercises, 70% take home examination

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### **LLAW6207 Corporate conflicts**

With increasing globalisation many corporations today operate beyond their domestic borders. Many businesses operate transnationally by means of a multinational group structure or through the medium of a joint venture. This course seeks to introduce students to the issues that arise in dealings with corporations that have a presence in more than one jurisdiction.

Some of the issues which we will be looking at are: What laws regulate companies that are incorporated in one jurisdiction but operate in another? How are mergers and amalgamations of corporations done when corporations operate in a number of jurisdictions? What are the issues that arise in the transnational collapse of corporations such as those we have witnessed in recent years? How are they dealt with?

The financial and securities markets are grappling today with issues arising from dealings in securities from multiple jurisdictions. We will also consider these issues.

The course will be useful to those who intend to have a corporate practice, or to work in the corporate, securities or banking sectors.

Assessment: 20% presentation and defense of paper, 80% research paper

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### **LLAW6209 Comparative family law**

The course focuses on family law issues in a comparative and international context and *prior knowledge of family law or comparative law is not required*.

Topics include: property and maintenance on divorce; the grounds for divorce; the legal status of cohabitants; legal regulation of adult relationships and changing family constructs; marital agreements (i.e. pre-nuptial, post-nuptial and separation agreement), the relevance of gender in family law and changing one's legal gender; parenthood and parental responsibility.

All topics are covered from a comparative perspective.

This course will be of interest to students and practitioners wanting to acquire an up-to-date understanding of current policy and issues in family law around the world and anyone with an interest in family law, comparative law and social policy.

Assessment: 25% class participation, 75% research paper

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### **LLAW6210 Energy law**

Energy law became recognised as a distinct subject following the energy crisis that resulted from the 1973 Arab-Israeli War. This course will introduce Energy law which concerns the laws and regulations that relate to the process and technology of production, distribution, conservation and development of carbon-based energy sources such as coal, oil and natural gas; non-carbon-based sources such as nuclear power; and renewable clean sources such as hydroelectricity, solar and wind power. More specifically, this course will introduce the law concerning the title, usage, development and control of those natural resources and technology which are used to manufacture energy. This specialisation is important because the energy industry remains to be a non-static, technologically developing, but heavily regulated and strategic, sector of the economy.

Areas covered in this course will include: the history of energy law; basic principles of energy law; theoretical perspectives on regulations as part of the modern legal system; regulatory issues for different types of energy; the common law rules of ownership; statutory ownership of sources; the law relating to the development of sources and technology; international energy investment law; soft regulatory laws in developing countries; alternative regulatory instruments; market mechanics; the role of law and the development of renewable energy technologies; national and supranational regulatory changes; regulatory developments in China; environmental regulations of energy and natural resources; territorial disputes over energy sources; nuclear power and the law; regulations of company structures and/or performance; regulating the largest (energy) companies in the world.

Assessment: 50% In-class exam; 50% essay

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### **LLAW6211 World trade law, policy and business**

This course may only be taken by graduate students. While there are no pre-requisites and no prior knowledge is required, the course is designed to be especially attractive to students who have taken Global Business Law I, or International Economic Law. It is not, however, open to graduate students who have previously taken Global Business Law II.

The course is tailor-made for graduate students who, in past years, would likely have taken Global Business Law II instead. Unlike Global Business Law II, the current course provides students with the opportunities to write a paper of no more than 6,000 words comprising 50% of the examination, and incorporates materials on the policy and business aspects of trade in East Asia (China, Korea and Japan). The course will also address specific policy and business challenges in other Asian countries and sub-regions (e.g. Vietnam, Southeast Asia more generally, and India).

Assessment: 50% take home examination, 50% research paper

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### **LLAW6212 Intellectual property protection in China: law, politics and culture**

This course will examine all major areas of Chinese intellectual property, including trademarks, patents, copyright, competition and related trade and technology transfer issues, with a brief introduction to background, policies and administrative procedures. Reading knowledge of Chinese helpful but not required. No prerequisite.

Topics to be covered: the IP challenge and common ground; overview of IP administration and ARR/ALL procedures; trade and service marks; patents and technology transfer; copyright and software protection; and competition (trade secrets, advertising etc).

Assessment: 20% participation, 80% take home examination

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### **LLAW6213 Property protection in China: law, politics and culture**

Due to China's unique economic structure and political culture, property protection has loomed large for many multinational companies to operate business in China. The vast growth of their investment in the Chinese property market makes it increasingly important for them to understand and use the complex legal system to protect their property interests. Moreover, a host of problems caused by the rapidly developing economic reform in China have made property protection a core issue at the forefront of human rights debate. Since the passage of the Property Law in 2007, there has been a more heated debate over the ways in which property system should be further reformed to address the problems such as social inequality and political change in China.

Situated in the watershed moment of institutional transition in China, this course aims to examine the legal protection of property rights under the Chinese law and its related economic, cultural and political issues. All the topics of this course will be discussed through case studies. With a focus on the newly adopted Property Law, the first part of the course deals in detail with the basic principles and rules that protect property rights. For example, we will discuss the civil law principles of property protection, acquisition of property, exclusive rights conferred on property owners, and the limitations on exclusive rights. The second part of the course considers the economic, social and political issues of protecting property rights in China. To do so, we will discuss issues such as the development of the real estate market, the protection of cultural property, and takings of property and land reforms.

Assessment: 30% participation, 70% two short essays or a research paper

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### **LLAW6214 Current issues in Chinese law**

This course will highlight one or more areas of contemporary Chinese commercial law and practice of importance to foreign trade, investment or finance in the People's Republic of China. The subject matter to be covered in the course is not fixed and will vary from year to year. Students will be apprised in advance of the subject of the course to be offered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 100% research paper

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### **LLAW6215 Seminar on human rights and constitutionalism in Asia**

The Seminar on Constitutionalism and Human Rights in Asia offers a opportunity to explore human rights in its social and institutional contexts. Students will explore the important themes of constitutionalism and human rights in Asia, a region that houses nearly two-thirds of the world's population and includes a wide range of cultures and developmental contexts. In thinking about human rights we confront a common observation that human rights practice is ultimately local. While the human rights movement has made extraordinary efforts in the post-World War II era to develop global standards and institutions it has been plagued by weak implementation. Significant regional human rights treaties and institutions in Europe, Africa and the Americas have sought to address this deficiency with mixed success. Even in those regions with such regional human rights regimes domestic implementation and enforcement through the institutions of constitutionalism provide a vital link for human rights implementation. As the only region without a regional human rights regime, Asia has relied more completely on domestic constitutionalism and practices to articulate and implement human rights commitments. This has made the human rights debate more seriously a matter of local politics and legal culture. In this respect, Asia has had a noteworthy engagement with some of the central themes in the human rights debate, relating human rights to culture, to the political economy of development, democratization, autonomy, development of civil society and to war and conflict. Asian discussions of these concerns have intimately connected issues of human rights, security and development. The seminar will explore these rich Asian themes and efforts. The course is open to any student interested in exploring these themes in a seminar context. There are no prerequisites. *For the basic content to be addressed each week see the course schedule below.*

Assessment: 100% continuous assessment

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### **LLAW6216 Graduate seminar**

The principal goal of the Graduate Seminar is to examine issues and questions regarding to comparative Chinese legal research which has been carried out in the English language. This is an interactive course which examines Chinese law scholarship and the underlining methodological questions.

Assessment: 100% continuous assessment

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### **LLAW6219 Patent law**

Intellectual Property Rights (IPRs) are among the most important catalysts for growth and innovation in the modern economy. IPRs – in particular patents - are worth billions if not trillions of dollars. What are patents and why are they so valuable? This course will look at patents, first in the context of all IPRs, then will examine rights under a patent, criteria for patentability, and the process of getting and challenging a patent. The class will also cover issues related to patent claims and will look at some current patent issues including:

- Commercial dealings: ownership, licensing, assignments, employees' inventions
- Protection of discoveries
- Patent infringement: Literal infringement and a comparison of UK and US treatment of non-literal patent infringement

- Protection of information technology products and the controversy surrounding software patents
- Design patents
- Patents in biotechnology

No prior technical knowledge is required for this class.

Assessment: 15% short quiz, 42.5% coursework paper, 42.5% exam

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### **LLAW6220 Constitutionalism in emerging states**

This seminar will examine comparative constitutional law in emerging states. The international debate over human rights and development often takes a top-down perspective (especially in human rights courses), asking what international institutions can do to better address issues of development, government power, human rights and human dignity. This course reverses this perspective, looking at these central issues of our time through a bottom-up constitutional lens. Unlike traditional comparative constitutional law courses that focus on established constitutional systems, this seminar will give greater emphasis to the development context and emerging states. With democratization in Latin America and East Asia, the collapse of the former Soviet Union, the economic and developmental crisis in Africa and South Asia and the Arab Spring, the debate over constitutionalism and its mission has taken on global dimensions. This debate addresses a range of questions. For example, will the rule of law and democracy better promote economic development? Can constitutional institutions such as judicial review, freedom of expression and democracy be successfully established in all societies? What are the cultural dimensions of this problem? Has liberal democracy failed the poor? Does constitutionalism travel well? What institutional emphases might better serve a post-communist society, a very poor underdeveloped country, or a rapidly developing society? Does liberal constitutionalism better respond to crises? Will “illiberal democracy” work better? Addressing these questions has become an interdisciplinary project with law, political science and other disciplines.

Assessment: 70% Research paper; 20% Oral presentation of research paper; 10% Class participation (includes two think papers worth 5% each)

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### **LLAW6221 Selected problems of the European convention on human rights**

This course offers an introduction to the international human rights law as developed in Europe under the 1950 European Convention on Human Rights and under the case-law of the European Court of Human Rights. It is meant to be taken in conjunction with, or as a sequel to, the course on “International and Regional Protection of Human Rights”. The European Convention represents the most developed mechanism of protection of human rights on a regional level and information on its practical operation may be relevant also for other regional and national systems.

After a general presentation of the European Convention, i.e. the system of human rights enshrined therein, as well as the organization, jurisdiction and procedure of the European Court of Human Rights, examples and cases taken from three substantive areas will be discussed:

- 1) the right to life, focused, in the first place on the use of lethal force by State agents, but also addressing positive obligations of the State to protect human life and questions like euthanasia (mercy killing) and abortion;
- 2) the prohibition of ill-treatment and its current extensions in the Court's case-law, particularly in respect to deportations and prison conditions and also in respect to the modern interpretation of the prohibition of forced labour;
- 3) the right to personal autonomy, including rights to personal identity and decisions on individual and family matters.

All students are invited to consult those written materials and, in particular, judgments of the European Court of Human Rights that are mentioned in the Syllabus.

Assessment: 70% take-home exam, 30% class participation

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### **LLAW6222 Financial dispute resolution: Hong Kong & international perspectives**

The course will focus on the new financial dispute resolution regime in Hong Kong and the establishment of the Financial Dispute Resolution Centre (FDRC) and what these developments may signify for the future of resolving financial disputes in Hong Kong. In addition, the course will provide a comparative overview of financial dispute resolution from some selected markets globally. In response to increasing investor participation in financial markets, regulators and governments have sought different ways of responding to investor-broker disputes. This course will analyze these different approaches and discuss the impact of legal systems, markets and cultural preferences. The course will consider what choices have been made by Hong Kong in order to adapt to local circumstances and will challenge students to assess these choices in the light of global experience. The design of dispute resolution systems can be key to their success. Students will be expected to understand who the stakeholders are in financial disputes, what their specific needs are and how the Hong Kong FDRC may address these concerns. The class will be assigned reading in advance of class. Students will be expected to participate in discussions and role-plays during class.

Assessment: 80% in-hall examination, 20% class participation

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### **LLAW6223 Copyright and creativity**

The course investigates the relationship between copyright protection and creativity by targeting creative sectors such as film, music, publishing, and software. Through in-depth analysis of the cases and empirical data involving copyright protection or infringement in these industries, the course aims to assess to what extent these sectors have benefited from or are impeded by copyright protection, how "fair use" systems can be employed to achieve a better balance between copyright industries and users/consumers of copyrighted works, whether alternative regimes such as public or free licenses including creative commons and open source initiatives are helpful in promoting creativity, and finally, how to capitalise on or commercialise the copyrights so that the works can generate financial gain for start-up creative companies or individuals. These issues will be discussed in the context of both traditional and internet-related creative sectors and activities such as parody, file-sharing, snippets and thumbnails, streaming, and copying for non-transformative personal use on internet, iPad or

iPhone, and online games. The countries or regions of which the copyright laws and creative sectors are examined include but are not limited to Hong Kong, the mainland China, the United States and the European Union.

Assessment: 80% final take home examination, 20% class participation.

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### **LLAW6224 Mergers and acquisitions**

The course will consider the specific circumstances of mergers and acquisitions in Hong Kong. Both private and public/listed M&A situations will be considered.

The course will commence with an examination of the reasons for M&A transactions occurring and a consideration of how M&A transactions are to be assessed, for example, in terms of their value creation. Although the course is focused on practices in the Hong Kong market, the course will also explore M&A transactions internationally, particularly with a view to gaining an understanding of the art and science of conducting an M&A transaction.

The different ways M&A can be conducted will be examined. The process of negotiating and executing transactions will be considered as well as the typical documents involved. This will cover standard terms in contracts, such as purchase price payment mechanisms, warranties and undertakings. Other aspects of the transaction process will be considered, in particular, the role of due diligence will be examined closely including as to how due diligence interacts with contractual documentation and the negotiation process. Problems arising in the cross-border context will also be considered.

A focus of the course will be the application and relevance of the Code on Takeovers and Mergers and the relevant Listing Rules of The Stock Exchange of Hong Kong Limited. These regulations will be considered in the context of both commercial practices as well as regulatory objectives such as investor protection and the promotion of good corporate governance. Practices such as irrevocable undertakings and the use of voting trusts, will also be considered.

There will be an emphasis on coursework comprised of actual and hypothetical M&A transactions that require legal analysis and solution via class presentations and discussion.

Assessment: 50% take home examination, 40% coursework, 10% class participation. Students are required to pass the exam to be eligible to pass the course.

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### **LLAW6225 PRC shipping law (in Putonghua)**

The course aims at promoting students' understanding of the legal framework governing shipping and maritime trade in mainland China.

Topics include: ships and crew; contracts of sea carriage; bills of lading and charterparties; multimodal transport; sea towage contracts; collision of ships; salvage at sea; general average; marine insurance; limitation of time and liability for maritime claims; maritime dispute resolution. The PRC Maritime Code and relevant legislation will be covered.

The course will be taught in Putonghua and examined in Chinese. The examination answers

can be written in either English or Chinese as selected by the student. Problem-solving approach with case studies will be adopted.

Assessment: 80% take home examination, 20% attendance and class participation

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### **LLAW6226 Comparative constitutional law theories**

This course is designed to examine constitutional law from a comparative and interdisciplinary perspective. It will cover a series of topics arising in the comparative study of constitutional structure and law in countries including the USA, Germany, and China. In addition, the course will deal with questions of constitutional purpose, function, design, and rules. In case studies, the course will examine underlying values, the interpretation of constitutional law as well as the role of the judiciary. Readings will be drawn from legal and social science literature, including works from economics and political science. This course is theory-based and has a significant research component.

Assessment: 70% research paper, 20% presentation, 10% participation

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### **LLAW6227 Introduction to private international law (conflict of laws)**

The field of private international law, otherwise known as “the conflict of laws”, is a body of principles by which Hong Kong courts deal with cases involving a mainland or overseas element. It is particularly important in this jurisdiction. Hong Kong’s economy is an intersection of many different people and places, including the mainland and elsewhere in Asia, as well as Europe and the Americas. Therefore, a significant proportion of disputes here have a connection outside of Hong Kong. An understanding of the conflict of laws will be useful to you as members of Hong Kong’s legal profession and if you are involved in international business.

In private international law, there are three questions that a judge must ask himself or herself. The answers to those questions form the backbone of this course:

- Is it appropriate for me to exercise jurisdiction in this dispute, even though it is connected in some way with a place outside Hong Kong?
- If I decide that I will exercise jurisdiction, is it right for me to apply only the law of Hong Kong to the dispute? Or does its “foreign element” mean I should, to some extent, apply the law of some other jurisdiction?
- Has the dispute already been the subject of a decision by a court outside Hong Kong? Should I somehow give effect to that decision within Hong Kong?

The aim of this course is to giving you a working knowledge of private international law so that you can competently advise your clients on such issues.

Assessment: 100% Take home assignment

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### **LLAW6228 Advanced legal theory**



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This course will provide a sustained and in-depth analysis of a central overarching theme in legal theory. The theme may vary from year to year. The inaugural theme is ‘Law and the common good’.

The theme will be explored through a range of material and disciplinary approaches. These will include conventional scholarly texts in law, politics and philosophy, but will also draw on non-standard resources including art, poetry, film, and literature.

The purpose of the thematic approach is to provide a coherence to the study of several perennial problems in legal theory. By working in a sustained way through a range of questions and perspectives associated with the overarching theme, students will gain a deeper knowledge of legal theoretical issues.

The theme ‘Law and the common good’ has been chosen to allow students to engage with certain key claims that are made on behalf of contemporary law and legal institutions, namely that they strive to or do in fact embody a common good or set of goods. Whether and how that embodiment operates, according to what conditions and under what limitations are questions to be explored through a series of engagements with texts, contexts, representations and contestations.

Topics to be covered under the theme may include: historical lineages of law and the common good: Aristotle and Aquinas; measuring the common good: rights v utility; how can law reflect the common good?; pluralism, democracy and the common good; contesting commonality: whose commons, which goods?; identity and voice: protest and political trials; overcoming social division: memory and the politics of reconciliation; authority, obligation and allegiance; the ‘new commons’ and the global public good. This list is not exhaustive.

As this is an advanced level course it is expected that students will normally have already studied some aspect of legal theory or a cognate subject. However, this is not a prerequisite.

Assessment: 80% research essay, 20% oral presentation

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### **LLAW6229 Arms control and disarmament law**

This course will explore all aspects of arms control and disarmament law, including international law-making, supervision, interpretation, dispute settlement and enforcement efforts. By “arms control law,” it is meant the rules and principles that regulate weapons and weapon-related material, which does not necessarily include the actual reduction or removal of those weapons or materials. By “disarmament,” it is meant the rules and principles for the reduction and eventual removal of weapons and weapon-related material. Particular emphasis will be put on weapons of mass destruction (WMD), which include nuclear, chemical, and biological agents and the means to deliver them, inasmuch as the UN Security Council repeatedly has noted that WMD proliferation is a serious threat to international peace and security. International and regional efforts to respond to these threats will be evaluated from a critical perspective. This course also will focus on the international law relating to conventional weapons, including arms trade generally, weapons with non-detectable fragments, landmines, incendiary weapons, laser weapons, riot-control agents, cluster munitions, exploding bullets, expanding bullets and other questionable methods and means of

warfare, all of which will be evaluated from a critical perspective. The interaction between this branch of public international law and others will be explored, including the interaction with international humanitarian law, international human rights law, international trade law, air and space law, collective security law, the law of international organizations, the law of state responsibility and the law of the sea, among others. All of this and more will be analyzed through various case studies and with a critical eye in assessing whether the current legal regime is adequate in meeting the needs of the international community. Potential reforms to the system will be explored through discussion and debate.

Assessment: 80% research paper, 20% general participation in in-class debate and discussion

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### **LLAW6230 Law and practice of investment treaty arbitration**

This course is about a form of arbitration which is specific to disputes arising between international investors and host states – i.e. investor-state disputes – involving public, treaty rights. In contrast, international commercial arbitration typically deals with the resolution of disputes over private law rights between what are usually private parties.

It will be of interest to those interested in arbitration, or the law of foreign investment.

The course will be taught from the viewpoint of a commercial law practitioner, and international lawyer and former treaty negotiator who has drafted such treaties.

Assessment: 50% take home examination, 50% research paper

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### **LLAW6231 Justice**

This course is about justice. It begins with a treatment of John Rawls' justice as fairness and the related debates. Implications of justice as fairness to constitutional regimes will be analyzed. The course also involves a discussion of distributive justice and corrective justice and their implications to selected branches of law such as tax law, tort law, contract law, and property law.

Assessment: 70% research paper, 20% presentation, 10% class participation

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### **LLAW6232 Clinical legal education programme – refugee stream**

The Refugee Legal Assistance Clinic is offered to undergraduate and post-graduate students in the Faculty of Law at the University of Hong Kong (HKU) in partnership with Justice Centre Hong Kong, formerly Hong Kong Refugee Advice Centre (HKRAC). Justice Centre Hong Kong provides human rights advocacy for and assistance to claimants seeking non-refoulement protection in Hong Kong (known as “protection claimants”).

The Clinic allows law students to learn both the theory and practice of human rights advocacy and assistance in the Hong Kong protection claim context. Students will develop advocacy skills, legal knowledge and skills as well as professional judgment in a real practice setting. Specific skills include critically analyzing state policies and lobbying, preparing submissions

to domestic and/or international bodies such as the Legislative Council or United Nations (UN) treaty monitoring bodies, understanding effective strategies to campaign for refugee rights, interviewing protection claimants, working with an interpreter, fact investigation, legal research and analysis, and legal drafting.

Students will be exposed to ethical dilemmas and choices. As such, this Clinic environment provides opportunity for students to learn about the nature and extent of a social justice practitioner's professional and ethical responsibilities. Students have the opportunity to recognise challenges, creatively identify options, execute their own judgment, and understand the impacts of their decisions.

Students may also have the opportunity to understand how protection claimants' basic human rights are protected in Hong Kong, by attending Legislative Council meetings and/or court cases affecting protection claimants' rights and participating in community outreach visits, and to critically evaluate the sufficiency of such protection.

Assessment: 100% Clinical work: Pass/Fail in two components, namely 1) demonstration of preparation, participation and professional skills in team meetings as well as individual client service sessions; 2) written work

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### **LLAW6233 Critical theory in legal scholarship**

This course will review the most important developments in critical theory as it relates to law and jurisprudence. We will critically engage with the works of the thinkers connected with the critical tradition in Western philosophy including those by Friedrich Nietzsche, Soren Kierkegaard, Sigmund Freud and Michel Foucault. We will then look at the influence of this critical tradition in Western legal theory including the American legal realists, Critical Legal Studies and the emergence of identity based critical movements. Some of the central questions which we will analyse include: What is critique and why do it? What is the role of critique in social movements lawyering? How to apply critical approaches to the understanding of contemporary legal issues?

Assessment: 65% research paper; 25% class presentation; 10% class participation

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### **LLAW6236 ASEAN law**

The significance of this course lies in the formation of the ASEAN Community in 2015. ASEAN has become more formalistic and legalistic in the last decade: while there will not be an 'EU-style community' in place by 2015, a formal community will be declared. There is a rapidly growing parallel demand from a variety of stakeholder groups (private sector, academia, diplomats, donor organisations etc.) for authoritative information. What exactly has ASEAN agreed on? What is implemented and how does it affect us?

The Association of Southeast Asian Nations (ASEAN) is a regional community established in 1967 by Indonesia, Malaysia, the Philippines, Singapore, and Thailand to promote political and economic cooperation, and regional stability. By 1999, it has expanded to ten members to include Brunei, Vietnam, Laos, Burma and Cambodia. The ASEAN Declaration in 1967, the association's founding document, formalised the principles of peace and cooperation to which

ASEAN is dedicated. With the ASEAN Charter entering into force on 15 December 2008, ASEAN established its legal identity as an international organization and took a leap into a community-building process with the aim of moving closer to ‘an EU-style community’. The Charter is an important step towards creating a single free-trade area (FTA) for the region encompassing 500 million people. The ASEAN region has a total area of 4.5 million square kilometers, a combined gross domestic product of almost US\$700 billion. China together with Japan and South Korea participate in the forum ASEAN Plus Three (APT) that functions as a coordinator of cooperation between the ASEAN and these three East Asia nations.

This course will cover the following topics:

1. How community law is derived from soft law.
2. ASEAN’s internal rules of conduct.
3. International treaties: Treaty of Amity and Cooperation (TAC), Southeast Asia Weapons Free Zone, Haze Agreement etc.
4. Dispute Settlement mechanisms.
5. Economic integration: PTA, FTA and the proposed Customs Union.
6. The new legal structure under the ASEAN Charter.
7. Towards community law under the ASEAN Community Blueprints.
8. The ASEAN Human Rights mechanism.
9. The role of external actors (EU, US, Japan, Australia) in the creation of community law.
10. Regional financial policies: concepts and institutional aspects of regional financial integration.

Assessment: 50% in-class examination, 50% written assignment

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### **LLAW6237 International arbitration: practice, process and strategy**

The course will introduce students to the practice of international arbitration with a focus on administered arbitration (utilizing the HKIAC Administered Arbitration Rules) and investment arbitration. Utilizing a case study as the basis for the course, students will apply the theory of arbitration to a mock case. The course will provide students with the opportunity to manage a case from the beginning to the end. From negotiating and drafting an arbitration clause to drafting pleadings, students will have the opportunity to enhance their legal writing skills in the context of an arbitration. Students will also learn how to strategise and learn the various options available during the course of an arbitration (mediation, negotiation, settlement, etc). An investment arbitration component will be incorporated into the case study whereby students will learn how to navigate the investment arbitration process and options. Mock hearings will also take place before eminent arbitrators in the industry. The class will be assigned reading in advance of class. Students will be expected to participate in role-plays and teamwork during class.

Assessment: 20% Completion of a final research paper, 80% Class participation, written assignment and oral presentation in class

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### **LLAW6238 Comparative arbitration in Asia**

The course will survey the arbitration laws in major jurisdictions in Asia, including but not

limited to Hong Kong, Singapore, China, India, Korea and Malaysia. For the sake of comparison and analysis, reference will be made to the UNCITRAL Model Law and the laws of major European arbitration centers. In addition, the course will survey compare and contrast the various approaches taken by arbitral institutions in these regions (such as HKIAC, SIAC, CIETAC, etc.) with respect to procedural and other matters. Again, reference to the UNCITRAL Model Rules and the rules of other major arbitral institutions (such as the ICC and the LCIA) will be useful for comparison and analysis.

Notwithstanding reference to UNCITRAL and other materials, the course will focus on the laws and procedural rules in use in the Asia-Pacific region, in particular Hong Kong, Singapore, China and India. In addition, although the course will take a comparative approach to these laws and rules across jurisdictions in the region, the interaction of state law and institutional rules within a particular jurisdiction will also be the subject of analysis and discussion. Finally, cultural and other issues which may impact the practice of arbitration in a given jurisdiction will be explored.

Students will be assigned reading in advance of class, and will be expected to participate in discussions and role-plays during class.

Assessment: 80% Take home examination or research paper; 20% Class participation (a set of assessment rubrics will be developed to assess class participation)

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## **LLAW6239 Law and regulation of private banking and wealth management I**

The eruption of the global financial crisis in 2008 has led various organizations such as the G20, Financial Stability Board, Basel Committee on Banking Supervision and the IMF, to implement new regulatory and economic policies. In the wake of the crisis, governments and financial institutions have been engaged in the implementation of these policies. On one hand, a number of critiques have been put forward regarding the efficacy of some of these initiatives. Questions have been raised regarding the effectiveness of regulatory harmonization to reduce systemic risk, and the optimal capital requirement in the eyes of risks balancing and economic development. On the other hand, amid such extreme volatility in Europe and the United States, the Asian markets, particularly the Chinese and Asia market, are seeing moderate growth. Many banks and financial institutions, particularly private banks and wealth management institutions, have shifted their focus from risk enhancement to business growth. With the worsening of the European debt crisis, they are now refocusing on reform, including to impose long-term structural changes to banks and financial institutions through regulations, risk management and corporate governance with the aim to weather through the financial instability and restore public and consumer trust, as well as constantly looking for new business propositions and processes to enhance the opportunities of capturing new business, enlarging customer base, yet better customer experience.

Constant requirement of implementing regulatory changes and placement of proper risk management and crisis management processes and procedures are mandatory in order to solidify these opportunities. In addition, instillation of corporate governance culture and in-place of proper corporate governance process and procedures along the organizational hierarchy is important and is a key to corporate success. For practitioners (lawyers, risk and compliance professionals and bankers) to stay advanced in the game, they are required to have a good understanding of the subject contents. This is particularly one of the evolving topics for

private bankers, retail banking and wealth management professionals.

The course consists of ten weeks of lectures. In addition to the academic requirement, the course will emphasise real-life experience and share from practitioners' perspectives. Recent scandals from major international banks on compliance and regulatory areas (i.e. KYC, AML, etc) will be analyzed. Important legal and regulatory components and Ordinances on clients on-boarding process, sales process, end-to-end client relationship management, corporate governance, sales ethics, clients suitability and sustainability & risk profiling, compliance requirement, regulators reporting, data privacy, etc. will be discussed in details. In addition, dispute handling on financial disputes will also be discussed.

Assessment: 80% Research paper, 20% Presentation

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## **LLAW6240 Security and human rights**

A central feature in the discourse on public policy around the globe has been the question of whether, and to what extent, it was (and is) necessary to curtail human rights in order to maintain and promote “security” in times of perceived crisis. Whether it is the threat of terrorism, organised crime or the risk of re-offending sex-offenders and child-molesters, governments are quick to respond with security legislation that often has significant implications for internationally protected rights and liberties. This course focusses on the alleged balance of “security” and “liberty”. It examines the theoretical underpinnings of the concepts of “security” and “liberty” and analyses how human rights protections apply in times of crisis. It discusses several contemporary case studies that highlight the tension between “liberty” and “security”, including derogation from human rights treaties, preventive detention of sex offenders, extradition/expulsion and non-refoulement, and the blacklisting of terrorists. What these case studies have in common is that they originate in a long-standing predicament of the liberal democratic state: how far are we prepared to go to create a “secure” environment for ourselves without getting caught in our own security net?

The specific aims of this course are:

- to examine and analyse some of the theoretical underpinnings of the concepts of “security” and “liberty” ;
- to provide students with an understanding of the historical development of the operation of human rights in times of crisis and emergency;
- to develop students’ knowledge and understanding of contemporary challenges in relation to human rights and security;
- to assist students to develop advanced research skills in the area of human rights law and policy, in particular in the context of security;
- and to assist students to recognise international human rights law in their subsequent careers;

The course will be cover nine substantive areas and is structured as follows:

- I. Introduction
- II. The Concept of Liberty
- III. The Concept of Security
- IV. Balancing Liberty and Security?
- V. How Human Rights Work

- VI. Derogation From Human Rights Treaties in Times of Emergency
- VII. ‘Ticking Bombs’ and Torture
- VIII. Extradition and Expulsion and the Principle of Non-Refoulement
- IX. Blacklisting of Persons and Entities Suspected of Terrorism
- X. Preventive Detention

Assessment: 15% Class participation, 15% presentation of short paper (based on research essay), 70% Research essay

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## **LLAW6242 Human rights in practice**

Human Rights in Practice aims to empower and equip HKU students with the skills and knowledge necessary to excel in the changing global legal environment by providing students with the opportunity to learn by doing and by providing service to the community.

Consistent with HKU’s spirit of opportunity in the midst of change and its commitment to “re-imagining its curriculum as a total learning experience”, the course aims to meet the increasing demand for practical and theoretical knowledge about human rights throughout the Asian region by providing HKU students an opportunity to experience human rights in practice domestically, regionally and internationally. The clinic will collaborate with select international and domestic NGOs as well as foreign law schools on human rights projects, including advocacy campaigns, legal and policy analysis, litigation, legal aid clinics, fact finding and report writing, submissions to human rights bodies, and human rights trainings and capacity building.

Preliminarily identified NGOs and foreign law schools include Mother’s Choice, Christian Action, Equal Opportunities Commission, Liberty Asia, Georgetown University Law Center and select disabled persons organizations in mainland China and Hong Kong. (Additional organizations and law schools to be identified prior to July 2014.)

The aims are:

1. to expose students to the challenges and skills of acting in the role of a lawyer within the unstructured situations that international human rights lawyers confront in practice;
2. to expand opportunities for collaborative experiential learning;
3. to instruct students in the theory and practice of domestic and international law;
4. to give students an opportunity to practice their professional skills and ethics;
5. to encourage students to identify and provide service for unmet legal needs;
6. to encourage critical analysis of the law, the relationship between international and domestic legal systems, and the clients’ place and the lawyer’s role within the international legal system; and
7. to provide students an opportunity to evaluate the real-life application and effects of international human rights instruments, as well as contribute to the promotion, progressive enforcement and internalization of international human rights.

Specific skills taught include interviewing and counseling, working with an interpreter, oral advocacy, negotiation, fact investigation, legal research and analysis, and legal writing and drafting.

Assessment: 25% Weekly Seminar and Training Sessions; 25% Fieldwork with partner

organizations; 30% Three directed Learning Journal entries (10% each); 20% Final written work product

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### **LLAW6243 Advanced issues in intellectual property law**

In the past decade, we have seen many attempts of the Hong Kong government to modernise our intellectual property laws often leading to extensive and sometimes heated debates. The Copyright Amendment Bill 2011 was not proceeded with as a result of filibuster because netizens were concerned about the lack of a parody exception and exemption for 'secondary creation'. Now that the government proposes 3 options to deal with parody, netizens and some interest groups lobby for a user generated content exception modeled on the recent Canadian amendments. Whilst parallel imports are basically liberalised under the trade mark legislation, parallel imports may still attract both civil and criminal liabilities under our copyright regime. Consultation about reforming our patent system to introduce original patent grant has led to disagreement about the commercial justification for such reform and whether with an original patent grant, we should maintain our re-registration and short-term patent systems. Although personal data is protected by our Personal Data (Privacy) Ordinance, the Ordinance does not extend to protect personal and territorial privacy. In the UK, the common law of breach of confidence is expanded to protect privacy and so far, we do not yet have a case on the subject.

On a global level, many countries stretch to extend conventional IP laws to cope with the digital era with varying results. Further, often, IP laws are criticised for lacking far behind technology and not being realistic with the computer generation.

This course aims to look critically into the underlying rationales mid concepts of our intellectual property laws and discuss whether there is a need for a fundamental reform.

Assessment: 10% class discussions, 30% class presentation on assigned topics, 60% research paper

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### **LLAW6244 Securities regulation II**

The course will build on and develop concepts and issues that were considered in Securities Regulation I as well as introducing new topics.

The development and marketing of investment products and complex products are subject to developed regulatory requirements that will be examined in detail. A preliminary overview of derivatives and traded futures will be undertaken for the purposes of providing a basis for understanding structured investment products. This will also provide a basis for appreciating the role of OTC derivatives in the marketplace, their role in the global financial credit crisis and the development of regulatory oversight of this market.

A focus of the course will be on the rapidly developing body of case law in the Hong Kong courts arising out of the increased activity of the Securities and Futures Commission in bringing misconduct matters under the Securities and Futures Ordinance (SFO) to trial. Regulatory enforcement cases will also be examined. This will require a closer examination of the relevant provisions of the SFO.



The course will also review the Code on Takeovers and Mergers, which regulates takeovers activity. The ways in which the Code affects the commercial execution of takeover and acquisition activity will be considered.

How the regulatory system is responding to relatively new phenomena, such as dark pools and high-frequency trading, as well as developing new approaches to existing issues, such as the position of the fiduciary concept and the treatment of information in the regulated marketplace, will also be considered. The development of behavioural or smart regulation will also be considered. A focus will be to develop a deeper understanding of the factors that influence such developments.

This Part II course will require a higher level of class interaction and will include a workshop component.

Prerequisite: successful completion of LLAW6049 Securities regulation I, or demonstrated knowledge of the industry

Assessment: 65% take home examination, 25% group course work, 10% class participation. Students are required to pass the exam to be eligible to pass the course.

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## **LLAW6245 Compliance in the Hong Kong securities industry**

The course will provide students with an understanding of the core roles, tasks, challenges and issues that a regulated intermediary must deal with when seeking to comply with applicable laws and regulations. While ‘compliance’ can readily be understood as an objective, much of the course will be concerned with the hurdles and issues that face compliance as a function when implemented in the complex matrix of regulatory requirements, business needs, management styles, and cultural and behavioural factors.

The course will commence with a brief recap of the regulatory framework for Hong Kong’s securities industry, including the overarching objectives of regulation, and an ad hoc review of some important failures that serve to highlight the relationship between compliance, regulations and the proper operation of markets.

With a view to giving a 360-degree review of the compliance function, the course will examine (a) the different roles of compliance in different types of organizations, (b) positioning the compliance function in the context of an organization’s culture, corporate governance practices, and ethics, (c) the proper role of compliance in the organization’s relationships with third parties (including customers, clients, counterparties, and regulators) and (d) compliance as a risk management function.

While the focus of the course will be on regulated intermediaries such as securities dealers, corporate finance advisers and asset managers, the course will also consider the position of issuers, particularly the challenges facing newly listed issuers.

The development, purpose and important aspects of the in-house compliance manual will be examined. How policies and procedures should be tailored, applied to an organization’s operations, and reviewed and assessed will be considered.

With a view to giving students closer contact with the realities of the compliance task, the course will make extensive use of speakers from the industry and the regulators. The format of each lecture will in general be comprised of two halves, the first being in a lecture format, the second being discussion-based and driven by small group work and question and answer discussions. Accordingly, student participation is expected and required to contribute to the learning context.

Prerequisite: successful completion of LLAW6049 Securities regulation I, or demonstrated knowledge of the industry

Assessment: 60% take home examination, 15% individual course work, 15% group course work, 10% class participation.

Students are required to pass the exam to be eligible to pass the course.

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### **LLAW6246 Law and regulation of private banking and wealth management II**

This course covers the design and compliance requirements of products offered by banks and other financial institutions in the context of private banking, wealth management services, and family office operations. In addition to the legal, regulatory and compliance components, a significant portion of the course covers the technical aspects of design of products and services including investments, insurance, tax planning, succession planning, philanthropy, etc, so as to provide a full spectrum of cover for the participants. Throughout the course, emphasis will be made on ethical issues and risks. In addition to the theoretical framework of issues, the course emphasises practical dimensions and involves sharing by experienced market professionals.

Assessment: 20% individual presentation and 80% research paper

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### **LLAW6247 Medico-legal issues**

Advances in medical knowledge and technologies have transformed the modern world, altering the very fabric of societies by greatly improving the quality of life and extending life expectancies in the developed world. But increasingly, advances in medical knowledge and technologies is seen as delivering ever-marginal returns, and as merely postponing inevitable mortality at considerable cost to the quality of life in many circumstances.

**Life and Death.** This course begins with an examination of some of the most fundamental human concepts: the meaning and definition of life, and of death. We start first with an inquiry into the meaning of life, and when it begins. This inquiry has profound consequences not only for the criminal law ('can one murder an unborn child? Is an unborn child alive and distinct from its mother to begin with?'), but also for modern clinical technologies such as artificial reproductive techniques such as *in vitro* fertilization, and also for cutting-edge research involving human stem cells derived from the destruction of human embryos. The definition of life, too, is central to the shape of the law in relation to issues such as abortion. The definition of life in the body of the law and of ethics is inextricably bound up with the definition of death: in this second line of inquiry, we explore the consequence of modern technologies that extend biological function in ways not historically within the experience of humankind. Is a person dead when the heart stops? When it does, is it ethical and legal to remove the heart for transplant into another person, with the intent of restarting it in the recipient? What is the

social, ethical and legal approach to the status of patients who are not wholly brain-dead, but are in irreversible states of unconsciousness such as PVS (Persistent Vegetative State)? Is it ethical and lawful to let such people die by removing them from life support? What is the meaning of 'brain dead'?

The next inquiry is a logical extension of the inquiry into death: people don't have any choice about being born, or of the circumstances of their birth, but do or should people have a choice about how they die? Do patients have a right to refuse treatment? Do patients have a right to die? Do patients have a right to be helped to die if they cannot achieve this themselves (for example, if they are paralysed)? What kind of advance decisions may a dying person make regarding his treatment and care at the end of life? Are living wills or advance directives lawful in Hong Kong? Do they bind doctors and families? Who is entitled to make decisions for a patient at the end of life when the patient is no longer competent or conscious? We examine in this context the notion of medical futility and its place in the law.

**The Human Body and the Law.** In this section, we explore a series of related inquiries, beginning first with the question of what kind of property rights may be asserted in the human body and its parts. Is a human body (or any part thereof) property which a testator may lawfully devise and make a binding gift of in his will? Is a corpse, or a preserved organ or tissue samples capable of being 'owned' in the sense of personal property in the law? The legal answer to this question may be surprising to most people, and it has profound implications for current developments such as intellectual property claims to or derived from human tissue or genes or proteins, as well as to the rapidly developing field of human tissue banking, biobanking and genetic or genomic banking.

Closely tied to the question of property in the body is the concept of human organ transplantation. Is transplantation legal, and what are the ethical and legal rules governing it? Do rules differ for *inter vivos* transplants (where the donated organ is taken from a living person) and cadaveric transplants (where the donated organ is taken from a dead person – but when is a person 'dead' for the purposes of transplantation?). We examine in particular the ethical and legal difficulties involved when organs are harvested from donors declared dead on cardiovascular death criteria instead of whole-brain death criteria. How should scarce resources such as human organs be allocated? To the sickest? To the best immunologically-compatible match? Should trade in organs be allowed, and if not, why?

**The Physician-Patient Relationship.** In this third part of the course we examine the standard duties imposed on physicians by the law, and consider especially the standard of care to be applied in the global duties of diagnosis, disclosure and treatment. Starting from the standard background of the *Bolam* rule, we consider the implications of the recent (March 2015) change in the common law relating to the standard of care for disclosure directed by the UK Supreme Court. Who decides how much information a patient should be given? Are there any circumstances in which a doctor may deliberately withhold information from the patient? What kinds of risks may a doctor take on behalf of the patient?

In this part, we also examine the obligation of confidence, starting first with an inquiry into the operation of the duty of confidence in the 'traditional' context or 'traditional' situations. But increasingly, the advent of modern technology and new applications for medical information is straining the traditional justifications for the confidence rule. We examine the modern formulation of the confidence rule in the context of new technologies such as genetic testing, genetic screening – and genetic research.

**Human Biomedical Research.** In this final part, we survey key developments in a rapidly-developing field which is becoming an increasingly important part of the work (and ambitions) of every healthcare institution in the developed world – biomedical research. The student is introduced to basic concepts in the field of human experimentation, research involving human subjects, clinical trials (drug or pharmaceutical trials), institutional ethical governance for biomedical research, human tissue banking, the use of medical information and biobanking.

Assessment: 30% class participation; 70% take home exam

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### **LLAW6248 Comparative contract law**

This course is designed to provide students with an understanding of contract law from a comparative perspective. Regulation of the same contractual issues differs in different legal systems. Through the introduction of basic definitions, concepts and relevant contractual issues, this course shall assess different regulations and discuss the most efficient ways to regulate contractual issues.

The course covers the following issues: the boundaries of contract (contract and tort), contract law theory, formation of contract, pre-contractual duties, incapacity, contents of contracts; interpretation of contracts, and remedies.

Assessment: 90% research paper, 10% class participation

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### **LLAW6249 Entertainment law: Popular iconography and the celebrity**

This course adopts an interdisciplinary cultural studies approach to understanding popular iconography in contemporary consumer culture and the world of entertainment. It introduces well-known copyrighted works, iconic trademarks and the celebrity personality as “cultural texts” and “semiotic signs” which are encoded with meanings recognised by the public at large, and discusses how the law could develop when taking into account such symbolic significance. It provides a transnational perspective with an emphasis on cases from California (where Hollywood is located), New York (where numerous celebrities are resident and global entertainment conglomerates are headquartered) and the United Kingdom; this is not a course on entertainment law in Hong Kong, but the principles to be examined in this course could be relevant to Hong Kong law. Specifically, the objectives of the course are to –

- analyse key aspects of a modern entertainment industry with a focus on claims brought by celebrities and rights owners of well-known popular iconography in the United States and United Kingdom;
- examine the production, circulation and consumption of the celebrity personality and iconic brands in contemporary society;
- provide an insight into the challenges to intellectual property law that social media present; and

- introduce students to the operation of the six prominent causes of action in the United States and the United Kingdom, with selected references to other jurisdictions, brought by celebrities and rights owners in the entertainment industry: (i) copyright infringement; (ii) trademark infringement/dilution; (iii) right of publicity tort; (iv) passing off; (v) right of privacy torts; (vi) breach of confidence.

From Naomi Campbell to Tiger Woods, Paris Hilton to Rihanna, Lady Gaga to JK Rowling, Barbie to James Bond, Louis Vuitton to Christian Louboutin, this course will be focusing on the operation of the six prominent causes of action brought by celebrities and rights owners.

Assessment: 90% take home research paper, 10% class participation

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### **LLAW6250 The regulation of biomedical research**

This is an advanced-level course that explores the ethical, legal and social framework of biomedical research and human experimentation.

The course is aimed at students seeking a understanding of the framework of legal and ethical regulation (both locally and internationally) of biomedical research in all its common aspects, particularly in the context of international standards for clinical trials (pharmaceutical trials); direct human experimental and biomedical research involving human subjects; ‘non-invasive’ epidemiological and other studies involving only the use of data; human tissue banking; cohort studies; biobanking; genetic testing and screening, genomic research; the use of ‘legacy’ diagnostic tissue or data collections; the sharing of personal, medical and genomic information (‘Big Data’); public ‘diseases registries’ and the use of medical information for public health purposes; the legal and ethical regulation of multi-centre and multi-jurisdictional collaborative biomedical research; international standards for ethical governance of biomedical research at the institutional level (through IRBs, ECs, HRECs); EMR (electronic medical records) databases; data-mining and the implications of migration to large-scale national health records systems.

Fundamental concepts such as the informed consent of subjects (at common law and under ICH rules) with particular emphasis on the consent given by or on behalf of minors, incompetent subjects and vulnerable populations, return of benefits to research subjects or research subject populations, assessment of risks, randomized controlled trial (RCT) and clinical equipoise will be considered in the context of clinical trials, as well as the impact and requirements of the Guidelines of The International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). Ethical requirements to be met for research protocols and publication of results in first-tier medical journals according to the ICMJE Guidelines will also be considered.

The course seeks to help legal practitioners understand and keep abreast of developments (and to enable to them advise the medical and biomedical research sector) in the rapidly developing field of biomedical research, and to equip them with the basic language and vocabulary necessary to follow and keep abreast of legal and ethical developments in the field. The particular focus of the course is biomedical research carried out by biomedical researchers who are also registered physicians, on research subjects (or personal or medical data relating to such subjects) who are also the patients of the physicians (the most common scenario in the

advanced jurisdictions of East Asia).

Assessment: 70% take home examination, 30% class participation

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### **LLAW6251 Comparative Property Law**

In 1766, Blackstone wrote that “there is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property.” In 1848, Karl Marx and Friedrich Engels wrote that property in land should be abolished in the most advanced countries. Property rights have been at the very heart of human development in the past centuries. On one hand, property has been viewed as the basis for liberty and economic development. On the other hand, as Proudhon said, property is just another word for theft. In China, land-related social conflicts occur every day and everywhere. From ordinary farmers to university scholars, each person has his own idea of property rights. However, in the fierce debates around property rights, there is lack of consensus on such basic questions: What is property? What things should we keep for ourselves? And what should we share with others? Why should a piece of land belong to you rather than me? How is property rights structured and defined? What is the relationship between property and development? On the other hand, property rights are behind many challenges facing human beings: can a market of pollution permits save us from air pollution? How to govern the common resources in the oceans? Have intellectual property rights deterred or encouraged technological innovation? Are property rights the key to economic prosperity in the U.S.? How about China? Why have land reform programs sponsored by the World Bank failed in many developing countries? Are indigenous residents in the New Territories of Hong Kong entitled to the development value of their land? This seminar will provide students with the theoretical and comparative perspectives to investigate such questions.

This seminar will begin with an inquiry into how members of a society allocate, and should allocate, formal and informal entitlements to scarce resources such as wild animals, labor, water, ideas, and land. It will explore various forms of private property and also alternative regimes such as communal and state property. It will give students an overview of the contemporary debates on property rights, in particular the debate between law and economics and critical legal studies regarding efficiency and fairness of property regimes. It will draw cases from different jurisdictions of the world, in particular the U.S., China, African and South American countries, and different fields of law, including environmental law.

Through this course, I hope to improve students’ understanding of property rights from both theoretical and comparative perspectives. It is more suitable to students who are interested in exploration and proactive learning rather than passive learning of black-letter laws.

Assessment: 30% Response papers, 30% class participation and presentations, 40% final essay

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### **LLAW6252 Construction of commercial contracts**

This LLM elective is designed to provide students with an understanding of the principles of construction of commercial contracts. Unlike the substantive law of contract, construction of contractual terms is essentially intuitive in nature, with no rules but, rather, with fundamental guiding principles which have evolved from a large body of case law and, indeed, continue to

evolve. It is, therefore, essential that any commercial lawyer has a solid grasp of such principles so as to enable them to anticipate how contractual terms are likely to be interpreted by the court for the purposes of giving advice and drafting contractual documents.

Other than examining the guiding principles of contractual construction, the course will also consider related concepts, such as implied terms, rectification and estoppel by convention, which are also highly relevant to the overall construction issue. To this end, the course will draw on, develop and deepen the knowledge acquired from their undergraduate study of the Law of Contract.

Assessment: 80% take home assignment, 20% group project

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### **LLAW6253 Comparative land use**

This course explores the relatively young and evolving field of land use law, seeking to understand the theoretical basis for such regulation, the effects (intended, unintended or perhaps unconsciously intended) of such regulation and the practicalities of land use and development within the legal framework. This course will take a comparative perspective by focusing on two major countries in the world: the U.S. and China. Two weeks will be spent on each country. Among the major issues this course will examine are: the law of zoning, the constitutional constraints on land use regulation (such as the takings Clause), the impact of land use control on housing and economic development. Through this course students will learn how land use regulations have evolved in both jurisdictions from fundamentally different beginnings: in the U.S., from no governmental control on land use at all to (probably) overregulation; in China, from public land regime and complete government control to the mixture of private property and governmental regulation. On the other hand, Chinese and American cities are facing similar problems today, such as conflicts in land use, sky-high housing prices, and tension between property protection and economic development. We hope students in this course will learn how to understand such problems, and start exploring how to resolve such problems, both in the context of American cities, and also in the context of Hong Kong and urbanization in mainland of China.

We will investigate cases from different cities around the world, including but not limited to Chinese cities such as Beijing and Shanghai, and American cities such as Philadelphia and New York. This course takes an interdisciplinary approach by building on frontier research in law, politics, sociology and economics.

We have many goals for this class, among them to:

1. Expose students to basic principles of law surrounding the, use, preservation, and development of land
2. Examine different regimes for regulation of land use and assess their strengths and weaknesses
3. Expose students to the practice of land use law and the major roles of a land use lawyer
4. Examine governmental structures that regulate the use of land and develop proposals to reform them
5. Explore current pressing topics in land use law and policy and develop tools to assess the appropriate responses to these challenges

Students will approach these questions from both theoretical and practical vantage points, and will be required to conduct research on how land use regulations are implemented in "real world" situations.

Assessment: 20% Class participation, 40% class presentation, 40% final essay

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## **LLAW6254 Compliance: Regulation in Practice**

The finance industry is facing increasing demand of compliance to the changing regulatory framework. The increase of regulations stem from the need of investors' protection, building investors' confidence and maintaining market integrity. There is also a need of building a risk and compliance culture within the industry and within the industry practitioners. Adherence to the industry's code of conduct is an importance cornerstone for the development of the finance industry.

The course will start with a discussion of Hong Kong's regulatory framework for the finance industry, namely the function, powers and responsibility of the Hong Kong Monetary Authority and the Securities and Futures Commission, and their interaction with the industry players. The Lehman Mini-bonds Report issued in December 2008 by the SFC and the nine general principles under the "Code of Conduct for Persons licensed by and registered with the SFC" will form the basis of the course. Then the course will look at various circulars, guidelines and consultation paper/result issued by the regulators since the 2008 global financial crisis. Focus of the review of the circulars and guidelines will be in areas of industry practices related to customer identification, know your client policy, client profiling, investment suitability, product risk assessment, investor characterization, selling process, documentation and risk disclosure. Brief reference to other areas of law which has impact on topics of documentation and selling process, including contract law and law of tort will be made.

The course will cover selected sections of the Securities and Futures Ordinance which is related to the regulations identified in the code, including definition of different types of licensing activities and the definition and application of the concept of professional investors.

As much as possible, cases and case laws in Hong Kong will be used to support the understanding of the regulations outlined in the code of conduct, circulars and guidelines. Practical examples of how financial intermediaries currently implement the regulations and policies will be touched upon.

### Course Outline

1. Hong Kong's regulatory framework. Hong Kong's industry players in the finance/investment market. Function, powers and responsibilities of HKMA and SFC.
2. SFC Code of Conduct – General Principles and application. The Lehman Mini-bonds report issued by the SFC.
3. Know Your Client policy, Customer Identification, Client Profiling, Investor Characterization
4. Securities & Futures Ordinance – Professional Investors, Licensed Activities, Fit and Proper Rule for licensing. SFC Consultation on Professional Investors.
5. Client Documentation and Client On-boarding. Advisory account and Execution only account. Solicitation and execution. SFC Consultation on Client Documentation. Contract law relating to client documentation.



6. Selling Process, Product Risk Assessment, Risk Mis-match. Product approach and portfolio approach. Law of tort relating to duty of care.
7. Code of Conduct refresh. SFC Reprimand cases on breach of Code of Conduct
8. Student Case Presentation
9. Student Case Presentation
10. Selling process refresh. Case law on alleged mis-selling
11. Management oversight and supervision. Role of Responsible Officer/Executive Officer. Risk and Compliance culture. Compliance functions in supporting business. Other risk control functions.

Assessment: 20% Class participation, 30% group presentation, 50% research paper.

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## **LLAW6255 Compliance: Law in Practice**

The growth and development of Hong Kong as an international financial centre hinges on our ability to maintain a high standard of market integrity and an effort to combat any financial crime. There are a number of statutes and new statutes enacted since the last financial crisis in 2008 both locally and overseas that are targeted to prevent financial crime and to keep the financial system safe.

The course is designed to review such legislation in Hong Kong and elsewhere and assess their applicability to financial intermediaries in managing their business and in complying with the statutes.

Local laws to cover will include

- (1) Anti Money Laundering and Counter Terrorist Financing Ordinance
- (2) Drug Trafficking (Recovery of Proceeds) Ordinance
- (3) United Nations (Anti-Terrorism) Measures Ordinance
- (4) Organized and Serious Crime Ordinance
  - mis-appropriation of customer assets
- (5) Personal Data (Privacy) Ordinance
- (6) Deposit Protection Scheme
- (7) Relevant sections of the Securities and Futures Ordinance for this course
  - unsolicited marketing calls
  - mis-representation
  - improper trading practices
  - insider dealing
  - unauthorized trading

Overseas law that impact on how financial intermediaries manage the business

- (1) Foreign Account Tax Compliance Act (FATCA)
- (2) Dodd-Frank Act
- (3) Financial Services and Market Act 2000

Other than statutory law as listed above, the circulars and guidance notes issued by the regulators (the Hong Kong Monetary Authority and the Securities and Futures Commission) related to the implementation and compliance of the subject laws will also be reviewed.

As much as possible, cases and case laws in Hong Kong will be used to support the

understanding of the legislation. Practical examples of how financial intermediaries currently implement the policies and procedures for complaint will be touched upon.

#### Course Outline

1. Enactment and subsequent development in the application of the AMLO. Subsequent circulars from the regulators. Role, power and duties of HKMA and SFC in the AMLO regime.
2. The AML Ordinance. Translating the Ordinance into policy and procedures. Warning signal and monitoring procedures. Reporting procedures. Duties and responsibilities of financial intermediaries and employees of financial intermediaries. Role of Compliance in AML and CFT. Role of other staff (including front line contact staff) in AML and CFT. Role of management in the AML and CFT.
3. AML related Ordinances – DTROP, OSCO, UNATMO. Case Laws relating to AMLO charges.
4. Personal Data (Privacy) Ordinance, Deposit Protection Scheme
5. Securities & Futures Ordinance – relevant sections. Case laws and SFC reprimand cases relating to SFO breaches. Appeal process and related tribunal.
6. Background to the development and legislature of FATCA. Why is Hong Kong involved? What does this mean to Hong Kong as a financial centre? How are financial intermediaries preparing themselves to be FATCA compliant, what does this mean?
7. Implications of the Dodd-Frank Act for Hong Kong
8. Implications of the Financial Services and Market Act 2000 for Hong Kong

Assessment: 20% Class participation, 30% group presentation, 50% paper.

## **COMPUTER SCIENCE MODULES\***

*\*Only offer to candidates admitted to LLM(IT&IPL) programme*

### **ECOM6032 e-Discovery and digital forensics**

This module will give the students an in-depth understanding of the current IT management and e-business litigation practices involving e-Discovery and Digital Forensics, and will help them to take a leading role in the management team to work with the legal counsel, auditor and department managers to prepare and implement an effective Incident Response Strategy to address various IT-business and legal problems in today's global competition and innovation driven economy.

Assessment: 100% course work, including assignments, case studies and class presentations and projects.

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### **ICOM6027 e-Crimes: digital crime scene and legal sanctions**

This module helps participants to grapple with crimes in the electronic age from both technical and legal points of view. It addresses three important aspects of the subject, namely, technologies adopted in e-crimes, legal sanctions and management of e-crimes scenes.

Topics covered include: trends in e-crimes; different types of e-crimes, tools and technologies for committing e-crimes; laws relating to e-crimes and criminal sanctions; digital forensics, post-incident crime scene management, and covert operation/live-forensic crime scene management, chain of evidence, collecting and collating digital evidence.

Assessment: Two written homework assignments (30%) and One open book examination (70%)

## REGULATIONS GOVERNING THE FORMAT, BINDING, AND PRESENTATION OF DISSERTATIONS FOR HIGHER DEGREES BY COURSEWORK

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.

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<sup>1</sup> 297 mm x 210 mm

N.B. Candidates for higher degrees are reminded that any dissertation not typed or printed on the correct paper will not be accepted. Any candidate who has difficulty in obtaining the paper should consult his Faculty Office.